

Senate Bill No. 1838

Passed the Senate August 26, 2004

Secretary of the Senate

Passed the Assembly August 24, 2004

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2004, at _____ o'clock __M.

Private Secretary of the Governor

└

CHAPTER _____

An act to amend Sections 11750, 11751.4, 11754, 11755, 11755.2, 11756, 11757.51, 11757.57, 11757.59, 11757.61, 11758.12, 11758.13, 11758.20, 11758.23, 11758.25, 11758.29, 11758.40, 11758.43, 11758.46, 11759.1, 11759.2, 11759.4, 11760, 11760.1, 11760.2, 11760.3, 11760.4, 11772, 11776, 11778.9, 11781, 11781.5, 11785, 11786, 11795, 11796, 11796.1, 11797, 11798, 11798.1, 11800, 11801, 11802, 11805, 11810, 11811, 11811.1, 11811.3, 11811.5, 11811.6, 11811.7, 11812, 11812.6, 11813, 11814, 11817.1, 11817.3, 11817.4, 11818, 11818.5, 11820, 11820.1, 11825, 11826, 11827, 11828, 11830.5, 11831.5, 11835, 11836, 11837.2, 11837.3, 11837.4, 11837.6, 11837.7, 11837.8, 11837.9, 11838.1, 11840, 11840.1, 11841, and 11860 of, to amend the heading of Article 1 (commencing with Section 11760) of Chapter 1 of Part 2 of Division 10.5 of, to amend the heading of Article 4 (commencing with Section 11810) of Chapter 4 of Part 2 of Division 10.5 of, to amend the heading of Chapter 3 (commencing with Section 11758.10) of Part 1 of Division 10.5 of, to amend the heading of Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of, to amend the heading of Chapter 2 (commencing with Section 11960) of Part 3 of Division 10.5 of, to amend the headings of Part 2 (commencing with Section 11760) and Part 3 (commencing with Section 11860) of Division 10.5 of, to amend and renumber Sections 11830 and 11831 of, to amend and renumber the headings of Article 4 (commencing with Section 11970.1) and Article 5 (commencing with Section 11970.45) of Chapter 2 of Part 3 of Division 10.5 of, to amend and renumber the heading of Chapter 10 (commencing with Section 11840) of Part 2 of Division 10.5 of, to add Sections 11752.1 and 11839.20 to, to add Article 2 (commencing with Section 11760.5) to Chapter 1 of Part 2 of Division 10.5 of, to add Chapter 3.5 (commencing with Section 11788), Chapter 10 (commencing with Section 11839), Chapter 12 (commencing with Section 11842), and Chapter 13 (commencing with Section 11847) to Part 2 of Division 10.5 of, to repeal Sections 11755.4, 11755.5, 11756.5, 11757, 11757.55, 11757.62, 11757.63, 11757.65, 11757.66, 11758.27, 11758.33, 11758.41, 11759.5, 11765, 11782, 11814.5, and 11864 of, to repeal Article 2



(commencing with Section 11865) and Article 4 (commencing with Section 11885) of Chapter 1 of Part 3 of Division 10.5 of, to repeal Article 1 (commencing with Section 11960) and Article 2 (commencing with Section 11965) of Chapter 2 of Part 3 of Division 10.5, to repeal the heading of Chapter 3.3 (commencing with Section 11758.20) of Part 1 of Division 10.5 of, to repeal Chapter 3.5 (commencing with Section 11758.50) of Part 1 of Division 10.5 of, to repeal Chapter 5 (commencing with Section 11759.10) of Part 1 of Division 10.5 of, to repeal Chapter 3 (commencing with Section 11970.5) and Chapter 4 (commencing with Section 11980) of Part 3 of Division 10.5 of, and to repeal and add Sections 11758.10 and 11817.8 of, and to repeal and add Article 3 (commencing with Section 11875) of, the Health and Safety Code, relating to alcohol and other drug programs.

LEGISLATIVE COUNSEL'S DIGEST

SB 1838, Chesbro. Alcohol and drug prevention and treatment programs.

(1) Existing law provides for drug and alcohol prevention and treatment programs, administered by the State Department of Alcohol and Drug Programs. These provisions are organized into separate categories for programs related to the inappropriate use of alcoholic beverages and those related to the use and abuse of drugs. These provisions authorize the department to provide funds, to counties that elect to participate, for the planning and implementation of local programs to alleviate problems related to inappropriate alcohol and drug use, and require the department to review and approve or disapprove county alcohol program plans and county drug program plans submitted for state and federal funds allocated by the department.

This bill would reorganize and recast these provisions to combine the 2 program categories related to alcoholic beverages and drugs. The bill would revise definitions and terminology applicable to these provisions to reflect this change. The bill would make conforming changes to resolve conflicting provisions among the program categories combined under the bill related to, among other things, departmental audits of expenditures of funds allocated to counties.



(2) Existing law requires the department to develop and administer waiver application criteria for capital construction of alcohol recovery facilities and drug treatment facilities.

This bill would eliminate this requirement.

(3) Existing law requires the California Health and Human Services Agency to create an interagency task force to develop a coordinated state strategy for addressing the treatment needs of pregnant women, postpartum women, and their children for alcohol or drug abuse.

This bill would repeal this provision.

(4) Under existing law, any board of supervisors that elects to apply for funding under these provisions is required to submit to the department an annual county alcohol program plan, county drug program plan, or both, for the current state fiscal year, within 90 days after notification of the final allocation of each year.

This bill would require a county that elects to participate to submit the plans within 60 days after the notification.

(5) Existing law requires a county that elects to apply for funds under these provisions to establish a perinatal coordinating council.

This bill, instead, would authorize the county to establish a perinatal coordinating council.

(6) Existing law requires the department to negotiate net amount contracts with each county that requests to participate, in lieu of county plans, budgets, and reports, required for funding under these provisions.

This bill would revise the procedures applicable to a negotiated net amount contract.

(7) Existing law requires the department to implement a program certification procedure for direct services funded under these provisions as they relate to alcohol use.

This bill would, instead, require the department to implement a program certification procedure for alcohol and other drug treatment and recovery services funded under these provisions.

(8) Existing law requires all drug abuse programs, including narcotic treatment programs, within a county to register with the county.

This bill would require all narcotic and drug abuse programs and alcohol and other drug abuse programs within a county to register with the county.



(9) The bill would repeal various obsolete provisions and make conforming changes. The bill would make numerous technical, nonsubstantive changes to these provisions.

(10) This bill would provide that Section 11839.20 as added to the Health and Safety Code by this bill and additional changes in Section 11880 of the Health and Safety Code proposed by AB 2136 would become operative if both this bill and AB 2136 are chaptered and become effective on or before January 1, 2005, and this bill is chaptered last.

The people of the State of California do enact as follows:

SECTION 1. Section 11750 of the Health and Safety Code is amended to read:

11750. There is in state government in the California Health and Human Services Agency a State Department of Alcohol and Drug Programs.

SEC. 2. Section 11751.4 of the Health and Safety Code is amended to read:

11751.4. It is the intent of the Legislature to ensure the integrity of state alcohol and drug programs.

SEC. 3. Section 11752.1 is added to the Health and Safety Code, to read:

11752.1. (a) “County board of supervisors” includes county boards of supervisors in the case of counties acting jointly.

(b) “Agency” means the California Health and Human Services Agency.

(c) “Secretary” means the Secretary of the California Health and Human Services Agency.

(d) “County plan for alcohol and other drug services” or “county plan” means the county plan, including a budget, adopted by the board of supervisors pursuant to Chapter 4 (commencing with Section 11795).

(e) “Advisory board” means the county advisory board on alcohol and other drug problems established at the sole discretion of the county board of supervisors pursuant to Section 11805. If a county does not establish an advisory board, then any provision of this chapter relative to the activities, duties, and functions of the advisory board shall be inapplicable to that county.



(f) “Alcohol and drug program administrator” means the county program administrator designated pursuant to Section 11800.

(g) “State alcohol and other drug program” includes all state alcohol and other drug projects administered by the department and all county alcohol and other drug programs funded under this division.

(h) “Health systems agency” means the health planning agency established pursuant to federal legislation cited as Public Law 93-641.

(i) “Alcohol and other drug problems” means problems of individuals, families, and the community that are related to the abuse of alcohol and other drugs.

(j) “Alcohol abuser” means anyone who has a problem related to the consumption of alcoholic beverages whether or not it is of a periodic or continuing nature. This definition includes, but is not limited to, persons referred to as “alcoholics” and “drinking drivers.” These problems may be evidenced by substantial impairment to the person’s physical, mental, or social well-being, which impairment adversely affects his or her abilities to function in the community.

(k) “Drug abuser” means anyone who has a problem related to the consumption of illicit, illegal, legal, or prescription drugs or over-the-counter medications in a manner other than prescribed, whether or not it is of a periodic or continuing nature. This definition includes, but is not limited to, persons referred to as “drug addicts.” The drug-consumption related problems of these persons may be evidenced by substantial impairment to the person’s physical, mental, or social well-being, which impairment adversely affects his or her abilities to function in the community.

(l) “Alcohol and other drug service” means any service that is designed to encourage recovery from the abuse of alcohol and other drugs and to alleviate or preclude problems in the individual, his or her family, and the community.

(m) “Alcohol and other drug abuse program” means a collection of alcohol and other drug services that are coordinated to achieve the specified objectives of this part.

(n) “Driving-under-the-influence program,” “DUI Program,” or “Licensed Program” means an alcohol and other drug service that has been issued a valid license by the department



to provide services pursuant to Chapter 9 (commencing with Section 11836) of Part 2.

(o) “Clients-participants” means recipients of alcohol and other drug prevention, treatment, and recovery program services.

(p) “Substance Abuse and Mental Health Services Administration” means that agency of the United States Department of Health and Human Services.

SEC. 4. Section 11754 of the Health and Safety Code is amended to read:

11754. (a) The department shall be the single state agency authorized to receive any federal funds payable directly to the state by the Substance Abuse and Mental Health Services Administration to implement programs that provide services to alleviate the problems related to alcohol and other drug use.

(b) The department may receive other federal funds and expend them pursuant to this division, the Budget Act, or other statutes.

SEC. 5. Section 11755 of the Health and Safety Code is amended to read:

11755. The department shall do all of the following:

(a) Adopt regulations pursuant to Section 11152 of the Government Code.

(b) Employ administrative, technical, and other personnel as may be necessary for the performance of its powers and duties.

(c) Do or perform any of the acts that may be necessary, desirable, or proper to carry out the purpose of this division.

(d) Provide funds to counties for the planning and implementation of local programs to alleviate problems related to alcohol and other drug use.

(e) Review and execute negotiated net amount contracts and Drug Medi-Cal contracts, and approve or disapprove county plans submitted for state and federal funds allocated by the department.

(f) Provide for technical assistance and training to local alcohol and other drug programs to assist in the planning and implementation of quality services. The department may charge a fee to cover the cost of providing technical assistance to these alcohol and other drug programs.

(g) Review research in, and serve as a resource to provide information relating to, alcohol and other drug programs.

(h) In cooperation with the Department of Personnel Administration, encourage training in other state agencies to assist

the agencies to recognize employee problems relating to alcohol and other drug use that affects job performance and encourage the employees to seek appropriate services.

(i) Assist and cooperate with the Office of Statewide Health Planning and Development and the California Health Policy and Data Advisory Commission in the drafting and adoption of the state health plan to assure inclusion of appropriate provisions relating to alcohol and other drug problems.

(j) In the same manner and subject to the same conditions as other state agencies, develop and submit annually to the Department of Finance a program budget for the state-funded alcohol and other drug program, which budget shall include expenditures proposed to be made under this division, and may include expenditures proposed to be made by any other state agency relating to alcohol and other drug problems, pursuant to an interagency agreement with the department.

(k) Review and certify alcohol and other drug programs meeting state standards pursuant to Chapter 7 (commencing with Section 11830) and Chapter 13 (commencing with Section 11847) of Part 2.

(l) Develop standards for assuring minimal statewide levels of service quality provided by alcohol and other drug programs.

(m) Review and license narcotic treatment programs.

(n) Develop and implement, in partnership with the counties, alcohol and other drug prevention strategies especially designed for youth.

(o) Develop and maintain a centralized alcohol and drug abuse indicator data collection system that shall gather and obtain information on the status of the alcohol and other drug abuse problems in the State of California. This information shall include, but not be limited to, all of the following:

(1) The number and characteristics of persons receiving recovery or treatment services from alcohol and other drug programs providing publicly funded services or services licensed by the department.

(2) The location and types of services offered by these programs.

(3) The number of admissions to hospitals on both an emergency room and inpatient basis for treatment related to alcohol and other drugs.



(4) The number of arrests for alcohol and other drug violations.

(5) The number of Department of the Youth Authority commitments for drug violations.

(6) The number of Department of Corrections commitments for drug violations.

(7) The number or percentage of persons having alcohol or other drug problems as determined by survey information.

(8) The amounts of illicit drugs confiscated by law enforcement in the state.

(9) The statewide alcohol and other drug program distribution and the fiscal impact of alcohol and other drug problems upon the state.

Providers of publicly funded services or services licensed by the department to clients-participants shall report data in a manner, in a format, and under a schedule prescribed by the department.

(p) Issue an annual report that portrays the drugs abused, populations affected, user characteristics, crime-related costs, socioeconomic costs, and other related information deemed necessary in providing a problem profile of alcohol and other drug abuse in the state.

(q) (1) Require any individual, public or private organization, or government agency, receiving federal grant funds, to comply with all federal statutes, regulations, guidelines, and terms and conditions of the grants. The failure of the individual, public or private organization, or government agency, to comply with the statutes, regulations, guidelines, and terms and conditions of grants received may result in the department's disallowing noncompliant costs, or the suspension or termination of the contract or grant award allocating the grant funds.

(2) Adopt regulations implementing this subdivision in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed necessary for the preservation of the public peace, health and safety, or general welfare. Subsequent amendments to the adoption of emergency regulations shall be deemed an emergency only if those amendments are adopted in direct response to a change in federal statutes, regulations, guidelines, or the terms and conditions of federal grants. Nothing in this paragraph shall be interpreted as prohibiting the department



from adopting subsequent amendments on a nonemergency basis or as emergency regulations in accordance with the standards set forth in Section 11346.1 of the Government Code.

SEC. 6. Section 11755.2 of the Health and Safety Code is amended to read:

11755.2. (a) The department may implement a program for the establishment of group homes for alcohol and other drug abusers as provided for in Section 300x-4a of Title 42 of the United States Code.

(b) The department may establish the Resident-Run Housing Revolving Fund for the purpose of making loans to group resident-run homes in conformance with federal statutes and regulations. Any program for the purpose of making loans to group resident-run homes shall be a part of the Resident-Run Housing Revolving Fund. Any unexpended balances in a current program shall be transferred to the Resident-Run Housing Revolving Fund and be available for expenditure during the following fiscal year. Appropriations for subsequent fiscal years shall be provided in the annual Budget Act. All loan payments received from previous loans shall be deposited in the Resident-Run Housing Revolving Fund, as well as all future collections. The Resident-Run Housing Revolving Fund shall be invested in the Pooled Money Investment Fund. Interest earned shall accrue to the Resident-Run Housing Revolving Fund and may be made available for future group resident-run home loans.

(c) The department may adopt regulations as are necessary to implement this section.

SEC. 7. Section 11755.4 of the Health and Safety Code is repealed.

SEC. 8. Section 11755.5 of the Health and Safety Code is repealed.

SEC. 9. Section 11756 of the Health and Safety Code is amended to read:

11756. The department relative to the statewide alcohol and other drug program, in addition to the duties provided for in Section 11755, shall do all of the following:

(a) Cooperate with other governmental agencies and the private sector in establishing, conducting, and coordinating alcohol and other drug programs and projects pursuant to Chapter 2 (commencing with Section 11775) of Part 2.



(b) Cooperate with other state agencies to encourage appropriate health facilities to recognize, without discrimination, persons with alcohol and other drug problems who also require medical care and to provide them with adequate and appropriate services.

(c) Encourage counties to coordinate alcohol and other drug services, where appropriate, with county health and social service programs, or with regional health programs pursuant to Article 1 (commencing with Section 11820) of Chapter 5 of Part 2.

(d) Encourage the utilization, support, assistance, and dedication of interested persons in the community in order to increase the number of persons with alcohol and other drug problems who voluntarily seek appropriate services to alleviate those problems.

(e) Evaluate or require the evaluation, including the collection of appropriate and necessary information, of alcohol and other drug programs pursuant to Chapter 6 (commencing with Section 11825) of Part 2.

(f) Review and license driving-under-the-influence programs.

(g) Perform all other duties specifically required pursuant to this part.

SEC. 10. Section 11756.5 of the Health and Safety Code is repealed.

SEC. 11. Section 11757 of the Health and Safety Code is repealed.

SEC. 12. Section 11757.51 of the Health and Safety Code is amended to read:

11757.51. The Legislature finds and declares the following:

(a) Many infants affected by alcohol or other drugs require neonatal intensive care because of low birth weight, prematurity, withdrawal symptoms, serious birth defects, and other medical problems. Alcohol or other drug affected infants are increasingly being placed in neonatal intensive care units and this care is very expensive.

(b) Alcohol and other drug affected infants place an expensive burden on the foster care system, regional centers, the public and private health care systems, and the public school system.

(c) The appropriate response to this crisis is prevention, through expanded resources for recovery from alcohol and other drug dependency. The only sure effective means of protecting the



health of these infants is to provide the services needed by mothers to address a problem that is addictive, not chosen.

(d) California has women of childbearing age who abuse alcohol or other drugs. Current resources are not adequate to meet the treatment needs of these women. California cannot delay addressing the serious need in this area. California taxpayers and health care consumers currently bear the enormous financial burden of alcohol and other drug affected infants and those costs can only be contained through expansion of treatment services for women who have an alcohol or other drug dependency and prevention services for women at risk of developing an alcohol or other drug dependency.

(e) Comprehensive prevention and treatment services for both mothers and infants need to be provided in a multidisciplinary, multispecialist, and multiagency fashion, necessitating coordination by both state and local governments.

(f) Intervention strategies for women at risk of developing an alcohol or other drug dependency have proven effective and there are currently in operation programs that can be expanded and modified to meet the critical need in this area.

SEC. 13. Section 11757.55 of the Health and Safety Code is repealed.

SEC. 14. Section 11757.57 of the Health and Safety Code is amended to read:

11757.57. (a) The office may provide or contract for training regarding alcohol and other drug dependency to providers of health, social, educational, and support services to women of childbearing age and their children.

(b) The purpose of any training provided pursuant to subdivision (a) may be to facilitate the taking of appropriate and thorough medical and social histories of women of childbearing age in order to identify those in special need of alcohol or other drug treatment services and to identify skills for providing case management services to alcohol and other drug using women and their infants. Additional training topics may be covered, including, but not limited to, how to develop procedures for referring those in need of alcohol and other drug treatment services and how to provide appropriate social and emotional support to, as well as developmental monitoring of, drug affected infants and children and their families.



SEC. 15. Section 11757.59 of the Health and Safety Code is amended to read:

11757.59. (a) Funds distributed under this chapter shall be used by counties to fund residential and nonresidential alcohol and other drug treatment programs for pregnant women, postpartum women, and their children and to fund other support services directed at bringing pregnant and postpartum women into treatment and caring for alcohol and other drug exposed infants. Funds may also be used to provide case management services to alcohol and other drug abusing women and their children and special recruitment, training, and support services for foster care parents of substance exposed infants.

(b) In carrying out its responsibilities under this chapter, the office may include in its guidelines the special needs of pregnant women and postpartum women who are chemically dependent and who are in need of treatment services. These special needs include, but are not limited to, the following:

(1) Provision for medical services, which may include, but not be limited to, the following:

(A) Low-risk and high-risk prenatal care.

(B) Pediatric followup care, including preventive infant health care.

(C) Developmental followup care.

(D) Nutrition counseling.

(E) Methadone.

(F) Testing and counseling relating to AIDS.

(G) Monthly visits with a physician and surgeon who specializes in treating persons with chemical dependencies.

(2) Provision for nonmedical services, which may include, but not be limited to, the following:

(A) Case management.

(B) Individual or group counseling sessions, which occur at least once a week.

(C) Family counseling, including, but not limited to, counseling services for partners and children of the women.

(D) Health education services, including perinatal chemical dependency classes, addressing topics that include, but are not limited to, the effects of drugs on infants, AIDS, addiction in the family, child development, nutrition, self esteem, and responsible decisionmaking.



- (E) Parenting classes.
- (F) Adequate child care for participating women.
- (G) Encouragement of active participation and support by spouses, domestic partners, family members, and friends.
- (H) Opportunities for a women-only treatment environment.
- (I) Transportation to outpatient treatment programs.
- (J) Followup services, which may include, but not be limited to, assistance with transition into housing in a drug-free environment.
- (K) Child development services.
- (L) Educational and vocational services for women.
- (M) Weekly urine testing.
- (N) Special recruitment, training, and support services for foster care parents of substance exposed infants.
- (O) Outreach which reflects the cultural and ethnic diversity of the population served.

SEC. 16. Section 11757.61 of the Health and Safety Code is amended to read:

11757.61. (a) Any county that receives funds distributed under this chapter may establish a perinatal coordinating council that consists of persons who are experts in the areas of alcohol and other drug treatment, client outreach and intervention with alcohol and other drug abusing women, child welfare services, maternal and child health services, and developmental services, and representatives from other community-based organizations. The county board of supervisors shall select an agency or department of the county to be the lead agency. The coordination efforts provided by the lead agency through the council shall include, but not be limited to, the following:

- (1) The identification of the extent of the perinatal alcohol and other drug abuse problem in the county based on existing data.
- (2) The development of coordinated responses by county health and social service agencies and departments, which responses shall address the problem of perinatal alcohol and other drug abuse in the county.
- (3) The definition of the elements of an integrated alcohol and other drug abuse recovery system for pregnant women, postpartum women, and their children.



(4) The identification of essential support services to be included into the integrated recovery system defined pursuant to paragraph (3).

(5) The promotion of communitywide understanding of the perinatal alcohol and other drug abuse problem in the county and appropriate responses to the problem.

(6) The communication with policymakers at both the state and federal level about prevention and treatment needs for pregnant women, postpartum women, and their children for alcohol and other drug abuse that need to be addressed.

(7) The utilization of services that emphasize coordination of treatment services with other health, child welfare, child development, and education services.

SEC. 17. Section 11757.62 of the Health and Safety Code is repealed.

SEC. 18. Section 11757.63 of the Health and Safety Code is repealed.

SEC. 19. Section 11757.65 of the Health and Safety Code is repealed.

SEC. 20. Section 11757.66 of the Health and Safety Code is repealed.

SEC. 21. The heading of Chapter 3 (commencing with Section 11758.10) of Part 1 of Division 10.5 of the Health and Safety Code is amended to read:

CHAPTER 3. COUNTY PLANS AND NEGOTIATED NET AMOUNT
CONTRACTS

SEC. 22. Section 11758.10 of the Health and Safety Code is repealed.

SEC. 23. Section 11758.10 is added to the Health and Safety Code, to read:

11758.10. (a) (1) Within 60 days after notification of the final allocation of each fiscal year pursuant to Section 11814, the board of supervisors of each county that receives funds under this division shall adopt and submit to the department, in accordance with the planning process approved by the county board of supervisors and Section 11798, a county plan.

(2) Within 60 days after notification of the final allocation of each fiscal year pursuant to Section 11814, the board of



supervisors of each county requesting to participate shall submit to the department, in accordance with Section 11798, a negotiated net amount contract for alcohol and other drug abuse services.

(b) The approved county plan, or executed negotiated net amount contract, as amended, shall remain in effect to provide the basis for advance payment until the next year's plan is approved or contract amendment is executed. The purpose of these county plans and contracts shall be to provide the basis for reimbursements pursuant to this division and to coordinate services pursuant to Part 2 (commencing with Section 11760) in a manner that avoids fragmentation of services and unnecessary expenditures.

(c) The department, after consultation with county alcohol and drug program administrators, shall develop standardized forms to be used by the counties in the submission of the county plan and negotiated net amount contract. The forms shall include terms and conditions relative to county compliance with applicable laws, regulations, guidelines, and Budget Act requirements.

SEC. 24. Section 11758.12 of the Health and Safety Code is amended to read:

11758.12. (a) A negotiated net amount, for the purposes of this chapter, shall be determined by calculating the total budget for services less the amount of projected revenue. These net amounts for alcohol or other drug services, or both, shall be negotiated for each year of the contract between the participating county and the department and shall be disbursed to participating counties monthly in arrears, upon enactment of the Budget Act. Monthly disbursements to the participating county at the beginning of each fiscal year shall be based on the preliminary allocation of funds issued by the department. The payments shall be based on appropriations made by the Legislature and monthly payments shall be adjusted to reflect reductions and deletions made by the Legislature. The department shall have the option to either terminate this agreement or amend the contract to reflect the reduced funding. The payments shall continue at the adjusted level until the negotiated contract is amended to reflect the final State Budget for the fiscal year and the final allocation to the counties.

(b) Where the State Department of Health Services adopts regulations for determining reimbursement of county alcohol and other drug program plan services allowable under the Medi-Cal



program, those regulations shall be controlling only as to the rates for reimbursement of these services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries.

(c) Participating counties shall report to the department any information required by the department in accordance with, but shall not exceed, any statutory restrictions, limitations, or conditions enacted by the Legislature, including the applicable Budget Act, or federal law and regulations.

(d) Absent a finding of fraud, abuse, or failure to achieve contract objectives, no restrictions, other than any contained in an executed negotiated net amount contract, a Drug Medi-Cal contract, and an approved county plan, whichever is applicable, shall be placed upon a county's expenditure or retention of state General Fund funds received pursuant to this chapter, with the exception of state General Fund funds used as a match for Drug Medi-Cal federal financial participation.

(e) Unspent state General Fund moneys identified after a date specified in the contract shall be retained by the county and spent on identifiable drug and alcohol service priorities in accordance with the contract.

SEC. 25. Section 11758.13 of the Health and Safety Code is amended to read:

11758.13. The terms of a negotiated net amount contract shall contain a provision defining and expanding upon dedicated capacity. At a minimum "dedicated capacity" shall be defined as a historically calculated service modality and service capacity that is adjusted for the projected expansion or reduction in services that the counties agree to make available to provide alcohol and other drug services to persons otherwise eligible for county services. The department shall base its contract negotiations on the availability of a mutually agreeable dedicated capacity.

SEC. 26. The heading of Chapter 3.3 (commencing with Section 11758.20) of Part 1 of Division 10.5 of the Health and Safety Code is repealed.

SEC. 27. Section 11758.20 of the Health and Safety Code is amended to read:

11758.20. (a) The department shall negotiate net amount contracts with each county that requests to participate, in lieu of county plans, budgets, and reports.



(b) The department shall allocate funds for the purpose of establishing negotiated net amount contracts, Drug Medi-Cal contracts, or both, with each participating county in accordance with Sections 11814 and 11817.3.

SEC. 28. Section 11758.23 of the Health and Safety Code is amended to read:

11758.23. (a) The department and counties shall calculate the negotiated net amount, for the purposes of Section 11758.20, by calculating the total budget for services less the amount of projected revenue. These net amounts for alcohol and other drug services shall be negotiated each fiscal year between the participating counties and the department and shall be disbursed to participating counties on a monthly basis.

(b) No contract shall become final until executed by both the participating county and the department. A contract shall be executed by September 30, and shall cover the fiscal year period from July 1 to June 30, inclusive. In the event the participating county or the department does not execute the contract by September 30, or in the event a contract is timely executed, but the county does not meet the performance requirements of the contract, the county shall be compensated for work performed upon submission by the county of a county plan in accordance with Section 11798.

(c) When a negotiated net amount contract is executed by the department, all participating government funding sources, except for the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code) and federal funds, shall be bound to that amount as the cost of providing alcohol or other drug services, subject to meeting the performance requirements in the contract.

SEC. 29. Section 11758.25 of the Health and Safety Code is amended to read:

11758.25. (a) Performance requirements shall be included within the terms of the negotiated net amount contract and shall include, at a minimum, all of the following:

- (1) Provision for an adequate quality and quantity of service.
- (2) Provision for access to services by persons residing within the contracting county.



(3) A provision requiring that all funds paid by the state for alcohol and other drug programs shall be used exclusively for the purpose for which the payment was made.

(4) A provision requiring that performance be in compliance with applicable state and federal laws, regulations, and standards.

(b) When a minimum required utilization level is measured to dedicated capacity, “dedicated capacity” shall be the available capacity based on historical data and department-approved projected expansion of a service modality identified in the contract.

(c) The terms of the contract shall include a provision that allows the department access to county and subcontractor financial and service records for the purpose of auditing the requirements in the contract and establishing the data necessary for prospective contract negotiations.

(d) The terms of the contract shall include a provision for resolution of disputed audit findings.

SEC. 30. Section 11758.27 of the Health and Safety Code is repealed.

SEC. 31. Section 11758.29 of the Health and Safety Code is amended to read:

11758.29. (a) A county with an executed negotiated net amount contract shall bear the financial risk in providing any alcohol or other drug services to the population described and enumerated in the executed contract within the net amount.

(b) The participating county shall not be precluded from subcontracting to purchase all or part of the delivery of alcohol and other drug services from noncounty providers.

(c) The participating county shall comply with Sections 11840 and 11840.1 to provide matching funds for programs and services.

(d) The participating county shall submit to the department statistical data, as required in the contract, and end-of-year cost data no later than 60 days after the close of the fiscal year.

SEC. 32. Section 11758.33 of the Health and Safety Code is repealed.

SEC. 33. Section 11758.40 of the Health and Safety Code is amended to read:

11758.40. Notwithstanding subdivision (c) of Section 11758.23, the department may enter into a Medi-Cal Drug



Treatment Program contract with each county for the provision of services within the county service area.

SEC. 34. Section 11758.41 of the Health and Safety Code is repealed.

SEC. 35. Section 11758.43 of the Health and Safety Code is amended to read:

11758.43. To the extent any county refuses to execute the Medi-Cal Drug Treatment Program contract in accordance with the requirements of federal medicaid and state Medi-Cal laws, and in accordance with the federal court order and any future action in the case of *Sobky v. Smoley*, 855 F. Supp. 1123 (E. D. Cal.), the department shall contract directly with the certified providers in that county, and retain that portion of that county's state General Fund allocation necessary to meet the cost of providing services to eligible beneficiaries and the costs to the state of administering the Medi-Cal Drug Treatment Program contracts.

SEC. 36. Section 11758.46 of the Health and Safety Code is amended to read:

11758.46. (a) For purposes of this section, "Drug Medi-Cal services" means all of the following services, administered by the department, and to the extent consistent with state and federal law:

(1) Narcotic treatment program services, as set forth in Section 11758.42.

(2) Day care rehabilitative services.

(3) Perinatal residential services for pregnant women and women in the postpartum period.

(4) Naltrexone services.

(5) Outpatient drug-free services.

(b) Upon federal approval of a federal medicaid state plan amendment authorizing federal financial participation in the following services, and subject to appropriation of funds, "Drug Medi-Cal services" shall also include the following services, administered by the department, and to the extent consistent with state and federal law:

(1) Notwithstanding subdivision (a) of Section 14132.90 of the Welfare and Institutions Code, day care habilitative services, which, for purposes of this paragraph, are outpatient counseling and rehabilitation services provided to persons with alcohol or other drug abuse diagnoses.



(2) Case management services, including supportive services to assist persons with alcohol or other drug abuse diagnoses in gaining access to medical, social, educational, and other needed services.

(3) Aftercare services.

(c) (1) Annually, the department shall publish procedures for contracting for Drug Medi-Cal services with certified providers and for claiming payments, including procedures and specifications for electronic data submission for services rendered.

(2) The department, county alcohol and drug program administrators, and alcohol and drug service providers shall automate the claiming process and the process for the submission of specific data required in connection with reimbursement for Drug Medi-Cal services, except that this requirement applies only if funding is available from sources other than those made available for treatment or other services.

(d) A county or a contractor for the provision of Drug Medi-Cal services shall notify the department, within 30 days of the receipt of the county allocation, of its intent to contract, as a component of the single state-county contract, and provide certified services pursuant to Section 11758.42, for the proposed budget year. The notification shall include an accurate and complete budget proposal, the structure of which shall be mutually agreed to by county alcohol and drug program administrators and the department, in the format provided by the department, for specific services, for a specific time period, and including estimated units of service, estimated rate per unit consistent with law and regulations, and total estimated cost for appropriate services.

(e) (1) Within 30 days of receipt of the proposal described in subdivision (d), the department shall provide, to counties and contractors proposing to provide Drug Medi-Cal services in the proposed budget year, a proposed multiple-year contract, as a component of the single state-county contract, for these services, a current utilization control plan, and appropriate administrative procedures.

(2) A county contracting for alcohol and drug services shall receive a single state-county contract for the net negotiated amount and Drug Medi-Cal services.



(3) Contractors contracting for Drug Medi-Cal services shall receive a Drug Medi-Cal contract.

(f) (1) Upon receipt of a contract proposal pursuant to subdivision (d), a county and a contractor seeking to provide reimbursable Drug Medi-Cal services and the department may begin negotiations and the process for contract approval.

(2) If a county does not approve a contract by July 1 of the appropriate fiscal year, in accordance with subdivisions (c) to (e), inclusive, the county shall have 30 additional days in which to approve a contract. If the county has not approved the contract by the end of that 30-day period, the department shall contract directly for services within 30 days.

(3) Counties shall negotiate contracts only with providers certified to provide reimbursable Drug Medi-Cal services and that elect to participate in this program. Upon contract approval by the department, a county shall establish approved contracts with certified providers within 30 days following enactment of the annual Budget Act. A county may establish contract provisions to ensure interim funding pending the execution of final contracts, multiple-year contracts pending final annual approval by the department, and, to the extent allowable under the annual Budget Act, other procedures to ensure timely payment for services.

(g) (1) For counties and contractors providing Drug Medi-Cal services, pursuant to approved contracts, and that have accurate and complete claims, reimbursement for services from state General Fund moneys shall commence no later than 45 days following the enactment of the annual Budget Act for the appropriate state fiscal year.

(2) For counties and contractors providing Drug Medi-Cal services, pursuant to approved contracts, and that have accurate and complete claims, reimbursement for services from federal medicaid funds shall commence no later than 45 days following the enactment of the annual Budget Act for the appropriate state fiscal year.

(3) The State Department of Health Services and the department shall develop methods to ensure timely payment of Drug Medi-Cal claims.

(4) The State Department of Health Services, in cooperation with the department, shall take steps necessary to streamline the billing system for reimbursable Drug Medi-Cal services, to assist



the department in meeting the billing provisions set forth in this subdivision.

(h) The department shall submit a proposed interagency agreement to the State Department of Health Services by May 1 for the following fiscal year. Review and interim approval of all contractual and programmatic requirements, except final fiscal estimates, shall be completed by the State Department of Health Services by July 1. The interagency agreement shall not take effect until the annual Budget Act is enacted and fiscal estimates are approved by the State Department of Health Services. Final approval shall be completed within 45 days of enactment of the Budget Act.

(i) (1) A county or a provider certified to provide reimbursable Drug Medi-Cal services, that is contracting with the department, shall estimate the cost of those services by April 1 of the fiscal year covered by the contract, and shall amend current contracts, as necessary, by the following July 1.

(2) A county or a provider, except for a provider to whom subdivision (j) applies, shall submit accurate and complete cost reports for the previous state fiscal year by November 1, following the end of the state fiscal year. The department may settle cost for Drug Medi-Cal services, based on the cost report as the final amendment to the approved single state-county contract.

(j) Certified narcotic treatment program providers, that are exclusively billing the state or the county for services rendered to persons subject to Section 1210.1 of the Penal Code, Section 3063.1 of the Penal Code, or Section 11758.42 shall submit accurate and complete performance reports for the previous state fiscal year by November 1 following the end of that state fiscal year. A provider to which this subdivision applies shall estimate its budgets using the uniform state monthly reimbursement rate. The format and content of the performance reports shall be mutually agreed to by the department, the County Alcohol and Drug Program Administrators Association of California, and representatives of the treatment providers.

SEC. 37. Chapter 3.5 (commencing with Section 11758.50) of Part 1 of Division 10.5 of the Health and Safety Code is repealed.

SEC. 38. Section 11759.1 of the Health and Safety Code is amended to read:



11759.1. The department, in collaboration with counties and providers of alcohol and other drug services, shall establish community-based nonresidential and residential recovery programs to intervene and treat the problems of alcohol and other drug use among youth.

SEC. 39. Section 11759.2 of the Health and Safety Code is amended to read:

11759.2. The department, in collaboration with counties and providers of alcohol and other drug services, shall establish criteria for participation, programmatic requirements, and terms and conditions for funding. These criteria shall include, but not be limited to, local match requirements of 10 percent, either in-kind or in cash. The criteria shall also include consideration of indicators of alcohol and other drug use among youth so that funds are targeted to localities with the highest need.

SEC. 40. Section 11759.4 of the Health and Safety Code is amended to read:

11759.4. Not later than January 1 of each year, the department, in collaboration with the counties and providers of alcohol and other drug services, shall report to the Legislature during budget hearings regarding the status of the implementation of this chapter.

SEC. 41. Section 11759.5 of the Health and Safety Code is repealed.

SEC. 42. Chapter 5 (commencing with Section 11759.10) of Part 1 of Division 10.5 of the Health and Safety Code is repealed.

SEC. 43. The heading of Part 2 (commencing with Section 11760) of Division 10.5 of the Health and Safety Code is amended to read:

**PART 2. STATE GOVERNMENT’S ROLE TO ALLEVIATE
PROBLEMS RELATED TO THE INAPPROPRIATE USE OF
ALCOHOLIC BEVERAGES AND OTHER DRUG USE**

SEC. 44. The heading of Article 1 (commencing with Section 11760) of Chapter 1 of Part 2 of Division 10.5 of the Health and Safety Code is amended to read:

**Article 1. Statement of Problems Related to the Inappropriate
Use of Alcoholic Beverages and Other Drug Use and the**



Reasons for and Limitations on State Government's Role

SEC. 45. Section 11760 of the Health and Safety Code is amended to read:

11760. The Legislature finds and declares that problems related to the inappropriate use of alcoholic beverages and other drug use adversely affect the general welfare of the people of California. These problems include, but are not limited to, the following:

(a) Substantial fatalities, permanent disability, and property damage resulting from driving under the influence. Crimes involving alcohol and other drug use are a drain on law enforcement, the courts, and the penal system.

(b) Alcoholism in the individual, which is an addiction to the drug alcohol, with its attendant deterioration of physical and emotional health and social well-being.

(c) Alcoholism and other drug use in the family with its attendant deterioration of all relationships and the well-being of family members.

(d) A risk of increased susceptibility to serious illnesses and other major health problems that ultimately create a burden on both public and private health facilities and resources.

(e) A risk of fetal alcohol syndrome.

(f) Losses in production and tax revenues due to absenteeism, unemployment, and industrial accidents.

SEC. 46. Section 11760.1 of the Health and Safety Code is amended to read:

11760.1. The Legislature recognizes that any efforts to address the problems related to inappropriate alcohol use and other drug use are greatly hindered by:

(a) The stigmatization of persons who have alcohol and other drug problems.

(b) Denial by the individual and the community, especially among members of the professional community, sometimes referred to as gatekeepers, regarding the nature and scope of alcohol and other drug problems.

(c) Services that, if uncoordinated, often are conflicting, inappropriate, ineffective, duplicative, and wasteful of limited public and private resources.



(d) Actions and attitudes that encourage consumption of alcoholic beverages in California, which consumption leads to alcohol problems.

(e) Actions and attitudes that encourage illicit drug use.

SEC. 47. Section 11760.2 of the Health and Safety Code is amended to read:

11760.2. The Legislature finds that state government has an affirmative role in alleviating problems related to the inappropriate use of alcoholic beverages and other drug use and that its major objective is protection of the public health and safety, particularly where problems related to inappropriate alcohol use and other drug use are likely to cause harm to individuals, families, and the community.

SEC. 48. Section 11760.3 of the Health and Safety Code is amended to read:

11760.3. The Legislature recognizes that state government's role should be limited for several reasons including, but not restricted to:

(a) State government should intervene in the activities of individuals only where those individuals' inappropriate use of alcoholic beverages and other drug use is likely to cause significant harm to other persons, families, or the community.

(b) The resources available to alleviate problems related to inappropriate alcohol use and other drug use are limited.

(c) Significant private resources, economic incentives, and voluntary actions of individuals and groups in the community are available and should be utilized and encouraged to preclude the necessity for governmental involvement.

SEC. 49. Section 11760.4 of the Health and Safety Code is amended to read:

11760.4. (a) The Legislature finds that, in order to utilize effectively the limited state funds available for programs whose purpose is to alleviate the problems related to inappropriate alcohol use and other drug use and to overcome the barriers to their solution as described in Section 11760.1, the responsibility and authority for the encouragement of the planning for, and the establishment of, county-based programs and statewide alcohol and other drug projects be concentrated primarily in one state department.



(b) The Legislature further recognizes the department's limited role in state government in trying to alleviate the problems related to inappropriate alcohol use and other drug use because of both of the following:

(1) The department's limited budget and staff.

(2) The important role played by other state agencies in trying to alleviate the problems related to inappropriate alcohol use and other drug use.

SEC. 50. Article 2 (commencing with Section 11760.5) is added to Chapter 1 of Part 2 of Division 10.5 of the Health and Safety Code, to read:

Article 2. Coordination of Services

11760.5. (a) The Legislature recognizes that alcohol and other drug abuse should be viewed and treated as a health problem, as well as a law enforcement problem. The alcohol and other drug abuse problem has significant public impact and must, in addition to law enforcement, be given community, education, social, and health attention if prevention and amelioration is to be achieved. These approaches should be coordinated into a multiagency and multifaceted program for alcohol and other drug abuse control in the counties of the state.

(b) It is the intent of the Legislature that community alcohol and other drug abuse services shall be organized in the counties for alcohol and other drug abusers through locally administered and locally controlled community alcohol and other drug abuse programs. The community alcohol and other drug abuse programs shall operate under the principle that services are designed to be equally accessible to all persons, including persons who because of differences in language, cultural differences in language, cultural traditions, or physical disabilities, confront barriers to knowing about or to using the alcohol and other drug abuse services that are offered.

11760.6. It is the intent of the Legislature that the department encourage the development of high quality, cost-effective services. It is further the intent of the Legislature that poor quality, underutilized, duplicative, or marginal services be disapproved by the county.



SEC. 51. Section 11765 of the Health and Safety Code is repealed.

SEC. 52. Section 11772 of the Health and Safety Code is amended to read:

11772. (a) (1) The department may enter into agreements and contracts with any person or public or private agency, corporation, or other legal entity, including contracts to pay these entities in advance or reimburse them for alcohol and other drug services provided to alcohol and other drug abusers and their families and communities.

(2) The department may make grants to public and private entities that are necessary or incidental to the performance of its duties and the execution of its powers. The department may pay these entities in advance or reimburse them for services provided.

(3) The Legislature directs the department to contract with any person or public or private agency, corporation, or other legal entity to perform its duties whenever that expertise is available and appropriate to utilize.

(b) Notwithstanding any other provision of this part, the department may not contract directly for the provision of alcohol and other drug services except as follows:

(1) To provide referral and monitoring services for recipients of Supplemental Security Income in those counties that choose not to provide these services.

(2) For demonstration programs of limited duration and scope, which programs, wherever possible, shall be administered through the counties, and which shall be specifically authorized and funded by the Budget Act or other statutes.

(3) To provide supportive services, such as technical assistance, on a statewide basis, or management and evaluation studies to help assure more effective implementation of this part.

(c) The Legislature strongly encourages all counties to apply for funds under this part because of the seriousness of alcohol and other drug problems in California and the necessity for affirmative governmental involvement to help alleviate alcohol and other drug problems. However, the Legislature has chosen not to mandate that counties provide those services and programs. In the absence of local community control of the services and programs, the state shall not intervene to operate, directly or through contract, services



and programs that the elected county board of supervisors has chosen not to provide to its constituents.

SEC. 54. Section 11776 of the Health and Safety Code is amended to read:

11776. The department shall confer and cooperate with other state agencies whose responsibilities include alleviating the problems related to inappropriate alcohol use and other drug use in order to maximize the state's effectiveness and limited resources in these efforts. These agencies shall include, but are not limited to, the Departments of Alcoholic Beverage Control, Corrections, Industrial Relations, Motor Vehicles, Rehabilitation, and the Youth Authority, the State Departments of Developmental Services, Education, Health Services, Mental Health, and Social Services, the Employment Development Department, and the Office of Traffic Safety.

SEC. 55. Section 11778.9 of the Health and Safety Code is amended to read:

11778.9. It is the intent of the Legislature that the department cooperate closely with individuals and organizations concerned with alleviating problems related to inappropriate alcohol use and other drug use. The Legislature recognizes the wealth of experience and commitment that many individuals and organizations in the community have to offer and that can enhance the effectiveness of the programs funded by the department through counties.

SEC. 56. Section 11781 of the Health and Safety Code is amended to read:

11781. The Legislature finds and declares all of the following:

(a) Federal, state, and local governments have the responsibility and the expressed intent to provide and ensure the accessibility of alcohol and other drug treatment, recovery, intervention, and prevention services to all individuals, with specific emphasis on women, ethnic minorities, and other disenfranchised segments of the population.

(b) The effects of inappropriate alcohol use by ethnic populations in California are increasing. Concurrently, the use of available recovery services by these populations is not in keeping with the increase of problems experienced by these populations.

(c) There is a great shortage of treatment programs available to pregnant women and their offspring. Blacks have an infant



mortality rate twice that of the general population, and substance abuse only exacerbates the problem.

(d) Barriers to accessing the services available specifically include, but are not limited to, the following:

(1) Lack of educational materials appropriate to the community.

(2) Geographic isolation or remoteness.

(3) Institutional and cultural barriers.

(4) Language differences.

(5) Lack of representation by affected groups employed by public and private service providers and policymakers.

(6) Insufficient research information regarding problems and appropriate strategies to resolve the problems of access to services.

(e) While current law requires the department to develop and implement a statewide plan to alleviate problems related to inappropriate alcohol use and other drug use and to overcome the barriers to their solution, these attempts have been ineffective due to the magnitude of the task.

SEC. 57. Section 11781.5 of the Health and Safety Code is amended to read:

11781.5. The department shall provide direction to counties and to public and private organizations serving the target populations to increase access to alcohol and other drug abuse prevention and recovery programs in all of the following ways:

(a) Assume responsibility to increase the knowledge within state agencies and the Legislature of problems affecting the target populations.

(b) Determine, compile, and disseminate information and resource needs of the counties and constituent service providers to better serve the target populations.

(c) Ensure that established state and county standards, policies, and procedures are not discriminatory and do not contribute to service accessibility barriers.

(d) Promote an understanding of ethnic and gender differences, approaches to problems, and strategies for increasing voluntary access to services by the target populations.

(e) Affirmatively coordinate with the counties for the provision of services to the target populations and to assure accountability that necessary services are actually provided.



SEC. 58. Section 11782 of the Health and Safety Code is repealed.

SEC. 59. Section 11785 of the Health and Safety Code is amended to read:

11785. The Legislature recognizes the importance of encouraging research to study the biological aspects of, and the social factors contributing to, problems related to the inappropriate use of alcoholic beverages and other drug use.

The Legislature further recognizes the value of interpreting and applying research results through changes in public policy.

SEC. 60. Section 11786 of the Health and Safety Code is amended to read:

11786. The department may enter into contracts for special studies and research to develop the information needed for formulating policies that will reduce the incidence of alcohol and other drug use problems through promising and innovative approaches in prevention, intervention, and treatment.

SEC. 61. Chapter 3.5 (commencing with Section 11788) is added to Part 2 of Division 10.5 of the Health and Safety Code, to read:

CHAPTER 3.5. RESOURCES AND INFORMATION

11788. The department, with the approval of the Secretary of the Health and Human Services Agency, may contract with any public or private agency for the performance of any of the functions vested in the department by this chapter. Any department of the state is authorized to enter into such a contract.

11789. (a) The department shall be a central information resource on alcohol and other drug abuse prevention and treatment programs and on research projects with respect to alcohol and other drug abuse.

(b) The department shall collect, and act as an information exchange for, information on research and service projects completed or in progress relating to alcohol and other drug abuse, provide, to any person, institution, or public agency proposing any research or service project on that subject, information with respect to the areas in which research is needed, and evaluate programs of research, treatment, and education with respect to alcohol and other drug abuse.



(c) No state agency shall conduct any research or service project on alcohol and other drug abuse until it has provided the department with a description of its proposed project and until the department has responded with a written description of how the research or service project relates with other completed, concurrently operating, or pending research or service projects. If the department fails to provide the agency with the written description within 60 days from the date of receipt of the proposed project, the state agency may proceed to conduct the research or service project as described in the agency's proposal.

11790. The department, at the request of the county alcohol and drug program administrator, may assist local community organizations in initiating effective programs to prevent and treat alcohol and other drug abuse. The department may charge a fee for this assistance.

11791. The department may develop and implement a mass media alcohol and other drug education program involving newspapers, radio, and television in order to provide community education, develop public awareness, and motivate community action in alcohol and other drug abuse prevention, treatment, and rehabilitation.

11792. (a) The department, in consultation with the State Department of Health Services, shall use existing materials to distribute a brochure on the care and treatment of infants under the age of six months who have been exposed to alcohol and other drugs. The brochure shall include, but not be limited to, the following:

(1) The signs and symptoms of an infant who has been exposed to alcohol and other drugs.

(2) The health problems of infants who have been exposed to alcohol and other drugs.

(3) The special feeding needs of infants who have been exposed to alcohol and other drugs.

(4) The special care needs of infants who have been exposed to alcohol and other drugs, such as not overstimulating those infants who are addicted to cocaine.

(b) The brochure developed pursuant to subdivision (a) may be distributed through hospitals, public health nurses, child protective services, alcohol and other drug facilities, educational networks, foster parent groups, medical professional offices,



Medi-Cal programs, and county interagency task force groups, as well as any other agency that the department selects.

11793. The department may develop an objective program evaluation device or methodology and evaluate state-supported alcohol and other drug abuse prevention and treatment programs.

11794. The department shall, in consultation with the State Department of Education, screen and evaluate alcohol and other drug abuse books, pamphlets, literature, movies, and other audiovisual aids and may prepare and disseminate lists of recommended materials to schools, public libraries, alcohol and other drug information centers, and other public and private agencies. The department may charge a fee, not exceeding actual costs, for providing the materials.

11794.1. It is the intent of the Legislature that the department, in collaboration with the State Department of Health Services and stakeholders in the medical and treatment provider communities, work to identify methods for better informing medical doctors of the benefits of diagnosing and treating substance abuse among their patient population, including, but not limited to, improved outreach efforts at the state and local levels and the use of information dissemination strategies, where appropriate.

SEC. 62. Section 11795 of the Health and Safety Code is amended to read:

11795. (a) The board of supervisors of each county may apply to the department for funds for the purpose of alleviating problems in its county related to alcohol abuse and other drug use. This part applies only to counties receiving state or federal funds allocated by the department under this part.

(b) The department shall coordinate state and local alcohol and other drug abuse prevention, care, treatment, and rehabilitation programs. It is the intent of the Legislature that the department and the counties maintain a cooperative partnership to assure effective implementation of this chapter.

(c) The Legislature grants responsibility to the county to administer and coordinate all county alcohol and other drug programs funded under this part. County alcohol and other drug programs shall account to the board of supervisors and to the state for their effective implementation. The county shall establish its own priorities for alcohol and other drug programs funded under



this part, except with respect to funds that are allocated to the county for federally required programs and services.

SEC. 63. Section 11796 of the Health and Safety Code is amended to read:

11796. (a) (1) Two or more counties, each with a population of under 200,000, may jointly establish county alcohol and other drug programs pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code.

(2) Subject to the department's approval, any county may, by contract, furnish alcohol and other drug services to another county.

(b) Unless otherwise expressly provided for or required by the context, this part relating to county alcohol and other drug programs shall apply to alcohol and other drug programs operated jointly by two or more counties.

SEC. 64. Section 11796.1 of the Health and Safety Code is amended to read:

11796.1. Except as provided in subdivision (b) of Section 11812, nothing in this part shall prevent any city or combination of cities from financing and administering directly an alcohol or other drug program or providing service by contracting with the county to provide and be reimbursed for services provided pursuant to the county alcohol and other drug program under Article 4 (commencing with Section 11810). In addition, where appropriate, any county may contract with a city, or combination of cities, to administer contracts with privately operated agencies to alleviate problems related to inappropriate alcohol use and other drug use.

SEC. 65. Section 11797 of the Health and Safety Code is amended to read:

11797. (a) Funds allocated to the county pursuant to this part shall be used exclusively for county alcohol and other drug services as identified in the executed negotiated net amount contract, Drug Medi-Cal contract, and the approved county plan, whichever is applicable, and shall be separately identified and accounted for.

(b) Of the funds allocated to each county in accordance with Sections 11817.1, 11817.3, 11818, and 11840, the department shall allocate to each county the amount required by that county to carry out its local alcohol and other drug abuse program in



accordance with the executed negotiated net amount contract or Drug Medi-Cal contract, as described in Section 11758.20, and the approved county plan, whichever is applicable.

SEC. 66. Section 11798 of the Health and Safety Code is amended to read:

11798. Counties that receive funds shall prepare and submit a county plan, negotiated net amount contract, and Drug Medi-Cal contract, whichever is applicable, that shall include a budget of all funds allocated to the county by the department pursuant to this part, and shall report utilization of those funds in an annual cost report pursuant to subdivision (q) of Section 11755.

SEC. 67. Section 11798.1 of the Health and Safety Code is amended to read:

11798.1. (a) Counties shall each develop and operate their alcohol and other drug abuse programs that would otherwise be required under this division, as one coordinated program in each county. Counties may combine their alcohol and drug advisory boards, their alcohol and other drug plans, their alcohol and drug budgets, and the submission deadlines for alcohol and other drug budgets and cost reports, and the administration of programs at both the county and provider levels.

(b) A county may, by resolution of its board of supervisors, develop and operate alcohol and other drug abuse programs as one coordinated system. In establishing coordinated systems with combined alcohol and other drug services counties shall do all of the following:

(1) Submit a county plan, including, but not limited to, a budget of all funds allocated to the county by the department.

(2) Report all of the following to the department:

(A) Utilization of all funds allocated by the department to the county in a combined annual expenditure report pursuant to state and federal requirements.

(B) All information necessary for the department to administer this section, including, but not limited to, information needed to meet federal reporting requirements. This information shall be reported on a form developed by the department in consultation with the County Alcohol and Drug Programs Administrators Association of California.



(3) Combine drug and alcohol administrations in performance of alcohol and other drug program administrative duties pursuant to Section 11801.

(4) Require combined programs, for planning and reimbursement purposes, to assess or categorize program participants at the time of admission and discharge with regard to whether their primary treatment needs are related to abuse of alcohol or of other drugs.

(5) Ensure that combined programs comply with statewide program standards developed pursuant to regulations adopted by the department in consultation with the alcohol and drug administrators.

(c) A county operating a coordinated system under this section shall assess or categorize a program participant at the time of admission and discharge as having problems primarily with abuse of either alcohol or of other drugs for purposes of federal reimbursement as required by federal law and report information to the department in a form consistent with existing data collection systems.

SEC. 68. Section 11800 of the Health and Safety Code is amended to read:

11800. (a) The board of supervisors shall designate a health-related county agency or department that shall administer the county alcohol and other drug program. The board of supervisors or the head of the designated health-related agency or department shall appoint an alcohol and drug program administrator, who shall report to the head of the agency or department through administrative channels designated by the board of supervisors. The county alcohol and other drug program shall be placed at the same administrative level and have responsibility and authority similar to other major health programs in the county.

(b) In accordance with regulations adopted by the department, the alcohol and drug program administrator shall be qualified by his or her ability, training, and experience to administer or coordinate and monitor the county alcohol and other drug program.

SEC. 69. Section 11801 of the Health and Safety Code is amended to read:



11801. The alcohol and drug program administrator, acting through administrative channels designated pursuant to Section 11795, shall do all of the following:

(a) Coordinate and be responsible for the planning process, including preparation of the county plan executing the negotiated net amount contract, and Drug Medi-Cal contract, whichever is applicable.

(b) (1) Recommend to the board of supervisors the provision of services, establishment of facilities, contracting for services or facilities, and other matters necessary or desirable in accomplishing the purposes of this part.

(2) Exercise general supervision over the alcohol and other drug program services provided under the county plan, negotiated net amount contract, and Drug Medi-Cal contract, whichever is applicable.

(c) Assure compliance with applicable laws relating to discrimination against any person because of race, creed, age, religion, sex, sexual preference, or disabling conditions.

(d) (1) Provide reports and information periodically to the advisory board regarding the status of alcohol and other drug programs in the county and keep the advisory board informed regarding changes in relevant state, federal, and local laws or regulations or improvements in program design and services that may affect the county alcohol and other drug program.

(2) Submit an annual report to the board of supervisors reporting all activities of the alcohol and other drug program, including a financial accounting of expenditures and a forecast of anticipated needs for the upcoming year.

(e) Be directly responsible for the administration of all alcohol or other drug program funds allocated to the county under this part, administration of county operated programs, and coordination and monitoring of programs that have contracts with the county to provide alcohol and other drug services.

(f) Encourage the appropriate utilization of all other public and private alcohol and other drug programs and services in the county in coordination with the programs funded pursuant to this part.

(g) Coordinate the activities of the county alcohol and other drug program with appropriate health planning agencies pursuant to Chapter 5 (commencing with Section 11820).



(h) Assure the evaluation of alcohol and other drug programs, including the collection of appropriate and necessary information, pursuant to Chapter 6 (commencing with Section 11825).

(i) Participate in the process to assure program quality in compliance with appropriate standards pursuant to Chapter 7 (commencing with Section 11830).

(j) Participate in the regulations process pursuant to Chapter 8 (commencing with Section 11835).

(k) Participate and represent the county in meetings of the County Alcohol and Drug Program Administrators Association of California pursuant to Section 11811.5 for the purposes of representing the counties in their relationship with the state with respect to policies, standards, and administration for alcohol and other drug abuse services.

(l) Provide for the orientation of the members of the advisory board, including, but not limited to, the provision of information and materials on alcohol and other drug problems and programs, planning, procedures, and site visits to local programs.

(m) Perform any other acts that may be necessary, desirable, or proper to carry out the purposes of this part.

SEC. 70. Section 11802 of the Health and Safety Code is amended to read:

11802. (a) Money deposited in the county alcohol abuse education and prevention fund pursuant to Section 1463.25 of the Penal Code shall be jointly administered by the administrator of the county's alcohol and other drug program and the county office of education subject to the approval of the board of supervisors and the county office of education. A minimum of 33 percent of the fund shall be allocated to primary prevention programs in the schools and community. Primary prevention programs developed and implemented under this section shall emphasize cooperation in planning and program implementation of alcohol abuse education and prevention among schools and community alcohol and other drug abuse agencies. Coordination shall be demonstrated through an interagency agreement among county offices of education, school districts, and the county alcohol and drug program administrator.

(b) Programs funded, planned, and implemented under this section shall emphasize a joint school-community primary education and prevention program that may include:



(1) School and classroom-oriented programs, including, but not limited to, programs designed to encourage sound decisionmaking, an awareness of values, an awareness of alcohol and its effects, enhanced self-esteem, social and practical skills that will assist students toward maturity, enhanced or improved school climate and relationships among all school personnel and students, and furtherance of cooperative efforts of school- and community-based personnel.

(2) School- or community-based nonclassroom alternative programs, or both, including, but not limited to, positive peer group programs, programs involving youth and adults in constructive activities designed as alternatives to alcohol use, and programs for special target groups, such as women, ethnic minorities, and other high-risk, high-need populations.

(3) Family-oriented programs, including, but not limited to, programs aimed at improving family relationships and involving parents constructively in the education and nurturing of their children, as well as in specific activities aimed at preventing alcohol abuse.

(c) The money deposited under subdivision (a) shall supplement and not supplant any local funds made available to support the county's alcohol abuse education and prevention efforts.

(d) If the county has a drug abuse primary prevention program, it may choose to combine or coordinate its drug and alcohol abuse education and prevention programs.

SEC. 71. Section 11805 of the Health and Safety Code is amended to read:

11805. Each county may have an advisory board on alcohol and other drug problems appointed by the board of supervisors. The advisory board may be independent, be under the jurisdiction of another health-related or human services advisory board established pursuant to any provision of state law, or have the same membership as that other advisory board.

SEC. 72. The heading of Article 4 (commencing with Section 11810) of Chapter 4 of Part 2 of Division 10.5 of the Health and Safety Code is amended to read:



Article 4. County Alcohol and Other Drug Program

SEC. 73. Section 11810 of the Health and Safety Code is amended to read:

11810. It is the intent of the Legislature to provide maximum flexibility in the use of federal and state alcohol and other drug program funds. County government is therefore given broad authority in determining the methods for encouragement of citizen participation, the scope of problem analysis, and the methods of planning for alcohol and other drug program services.

SEC. 74. Section 11811 of the Health and Safety Code is amended to read:

11811. Counties shall have broad discretion in the choice of services they utilize to alleviate the alcohol and other drug problems of specific population groups and the community. Those services shall include services for alcohol and other drug abuse prevention and treatment.

SEC. 75. Section 11811.1 of the Health and Safety Code is amended to read:

11811.1. (a) The major purpose of prevention and early intervention activities includes, but is not limited to, all of the following:

(1) To facilitate positive change in community and individual understanding, values, attitudes, environmental factors, and behavior concerning alcohol and its inappropriate use and other drug use.

(2) To reduce the likelihood of the inappropriate use of alcohol and other drugs by developing and implementing public policies designed to reduce or limit alcohol and other drug consumption.

(3) To lessen the stigmatization of persons who seek help for problems related to inappropriate alcohol use and other drug use.

(4) To provide information so that the public may make informed personal and public policy decisions regarding the inappropriate use and nonuse of alcoholic beverages and other drugs.

(5) To enlighten the “helping professions” to recognize persons with alcohol and other drug problems and to offer them appropriate services.

(6) To encourage persons to seek early help for their alcohol or other drug problems.



(b) The Legislature recognizes that the effective provision of the activities specified in subdivision (a) will result in an increased demand upon, and utilization of, existing services to alcohol and other drug abusers and their families. However, the Legislature believes that provision of effective prevention and early intervention activities over the next decade will result in saving taxpayers funds that might otherwise have to be expended for higher health and safety costs.

SEC. 76. Section 11811.3 of the Health and Safety Code is amended to read:

11811.3. In addition to the services described in Section 11811, a county may provide other services or programs pursuant to this section, including, but not limited to, the following:

(a) (1) Occupational programs for county employees designed to help recognize employees with alcohol and other drug problems that affect their job performance and to encourage these employees to seek services to alleviate those problems.

(2) It is the intent of the Legislature to encourage every county to institute a program described in paragraph (1) for its own employees in order to set an example for the community regarding local government's attitude toward alcohol and other drug problems.

(b) (1) Counties may use funds allocated to them by the department for any other services authorized in Section 11811 or this section.

(2) It is the intent of the Legislature that counties make maximum utilization of vocational rehabilitation services, where reasonable and appropriate to do so. A county, pursuant to a resolution by the board of supervisors, may utilize funds for other authorized services pursuant to Section 11811.

SEC. 77. Section 11811.5 of the Health and Safety Code is amended to read:

11811.5. A county may also utilize funds for the following:

(a) Planning, program development, and administration by the county. The department shall establish uniform definitions of the elements of county alcohol and other drug program administration and shall set the minimum and maximum levels of administrative services, taking into account the total funds expended pursuant to the county plan, negotiated net amount contract, and Drug Medi-Cal contract, whichever is applicable.



(b) In conducting planning, evaluation, and research activities to develop and implement the county alcohol and other drug program, counties may contract with appropriate public or private agencies.

(c) Actual and necessary expenses incurred by the alcohol and drug program administrator relating to attendance at not more than four meetings each year of the administrators and reasonable dues for any related activities and meetings. Each administrator of a county that applies for funds under this part shall attend each quarterly meeting, unless a waiver is provided for by the department.

SEC. 78. Section 11811.6 of the Health and Safety Code is amended to read:

11811.6. (a) The department shall consult with alcohol and drug program administrators in establishing standards pursuant to Chapter 7 (commencing with Section 11830) and regulations pursuant to Chapter 8 (commencing with Section 11835), shall consult with alcohol and drug program administrators on matters of major policy and administration, and may consult with alcohol and drug program administrators on other matters affecting persons with alcohol and other drug problems. The alcohol and drug program administrators may organize, adopt bylaws, and annually elect officers. The administrators shall consist of all legally appointed alcohol and drug administrators in the state as designated pursuant to subdivision (a) of Section 11800.

(b) Actual and necessary expenses for attendance at special meetings of the committees of the alcohol and drug program administrators called by the director shall be legally charged against any funds available for the administration of this section.

SEC. 79. Section 11811.7 of the Health and Safety Code is amended to read:

11811.7. Services financed under this part shall:

(a) Be provided on a voluntary basis only, except as provided in Article 1.5 (commencing with Section 5170) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code.

(b) Encourage persons utilizing services, and members of their family, to participate in community self-help groups providing ongoing support to alcohol and other drug abusers and their family members.



(c) Encourage persons suffering from alcoholism and other drug problems to abstain from the use of alcohol and illicit drugs.

SEC. 80. Section 11812 of the Health and Safety Code is amended to read:

11812. The following conditions apply to county expenditures of state funds pursuant to this part:

(a) Where the services specified in the approved county plan are provided pursuant to other general health or social programs, only that portion of the services dealing with alcohol and other drug problems may be financed under this part.

(b) (1) Each county shall utilize available privately operated alcohol and other drug programs and services in the county prior to utilizing new county-operated programs and services, or city-operated programs and services pursuant to Section 11796.1, when the available privately operated programs and services are as favorable in quality and cost as are those operated by the county or city. When these privately operated programs and services are not available, the county shall make a reasonable effort to encourage the development of privately operated programs and services prior to developing county-operated or city-operated programs and services.

(2) The county alcohol and drug program administrator shall demonstrate to the board of supervisors, and to the department, prior to development of any new program or service, that reasonable efforts have been made to comply with paragraph (1). All available local public or private programs and services, as described in paragraph (1), that are appropriate shall be utilized prior to using services provided by hospitals.

(c) All personal information and records obtained by the county, any program that has a contract with the county, or the department pursuant to this section are confidential and may be disclosed only in those instances designated in Section 5328 of the Welfare and Institutions Code.

(1) Any person may bring an action against an individual who has willingly and knowingly released confidential information or records concerning that person in violation of this section, for the greater of the following amounts:

(A) Five hundred dollars (\$500).

(B) Three times the amount of actual damages, if any, sustained by the plaintiff.



(2) (A) Any person may, in accordance with Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, bring an action to enjoin the release of confidential information or records in violation of this chapter, and may in the same action seek damages as provided in this section.

(B) It is not a prerequisite to an action under this section that the plaintiff suffer or be threatened with actual damages.

(d) The department may require that each county and any public or private provider of alcohol and other drug services that receives any state funds under this part provide any information requested by the department relating to any application for or receipt of federal or other nonstate funds, including fees, donations, grants, and other revenues, for alcohol and other drug abuse services provided by these agencies.

SEC. 81. Section 11812.6 of the Health and Safety Code is amended to read:

11812.6. (a) In addition to any other services authorized under this chapter, the department shall urge the county, in the county plan, to develop within existing resources specific policies and procedures to address the unique treatment problems presented by persons who are both mentally disordered and chemically dependent. If contained in the county plan, priority shall be given to developing policies and procedures that relate to the diagnosis and treatment of homeless persons who are mentally disordered and chemically dependent.

(b) The director shall consult with the Director of Mental Health in developing guidelines for county mental health and alcohol and drug treatment programs in order to comply with this section.

SEC. 82. Section 11813 of the Health and Safety Code is amended to read:

11813. Nothing in this part shall prohibit a county from appropriating funds for alcohol and other drug programs and services in addition to the funds allocated by the department.

SEC. 83. Section 11814 of the Health and Safety Code is amended to read:

11814. (a) The department shall issue allocations to counties for alcohol and other drug programs.



(b) In issuing allocations to counties, it is the intent of the Legislature that counties shall allocate all funds received pursuant to state and federal laws and regulations.

(c) The department shall estimate an allocation of state and federal funds available for each county to implement the approved county plan, executed negotiated net amount contract, and Drug Medi-Cal contract, whichever is applicable. In making allocations, the department shall base its allocations on the population of each county. However, the department shall assure that each small population county receives a minimum amount of funds to provide adequate alcohol and other drug services. The department may take into account other factors in making the allocations if the department finds that the factors relate to the level of alcohol and other drug problems in the county. No later than 45 days after introduction of the Budget Bill, the department shall notify each county regarding its preliminary allocation under this division, pending enactment of the Budget Bill. The 1984–85 fiscal year shall establish the base funding for the county alcohol and drug allocation for local programs. Beginning with the 1985–86 fiscal year, cost-of-living adjustments, if granted, shall be considered as tied to the base allocation established in the 1984–85 fiscal year, plus any subsequent cost-of-living adjustments. The department shall notify each county regarding its final allocation after enactment of the Budget Bill.

(d) Notwithstanding any other provision in this section, the director may reduce funding below the base year amounts of counties that underspend their allocation for two consecutive years by more than 5 percent. Any reduction shall be limited to the difference between 5 percent of the allocation and the total amount unspent. The amounts underspent shall be determined based on the most recent cost reports.

SEC. 84. Section 11814.5 of the Health and Safety Code is repealed.

SEC. 85. Section 11817.1 of the Health and Safety Code is amended to read:

11817.1. The department may reallocate among counties any savings that occur during the fiscal year in programs or services or any allocations either not applied for by a county or not in compliance with this part. Reallocations may be made to counties



by amendment to their county plans or negotiated net amount contracts.

SEC. 86. Section 11817.3 of the Health and Safety Code is amended to read:

11817.3. (a) There shall be an appropriation from the Budget Act to the department to fund programs and services to alleviate problems related to inappropriate alcohol use or other drug use as provided for in this part. However, if the state receives additional funds from the federal government after the enactment of the Budget Act, which funds may be augmented by the Director of Finance to the appropriation described in this section in accordance with the Budget Act, then the department shall determine the amount of those funds to be used for allocation to counties, and shall allocate that amount to counties with approved amended county plans, executed negotiated net amount contracts, and amended Drug Medi-Cal contracts, whichever is applicable, within 90 days of receipt of the additional funds to support programs and services to alleviate alcohol-related and other drug-related problems as described in this subdivision. The allocation of all funds pursuant to this subdivision shall comply with federal requirements and with any requirements pursuant to Section 28.00 of the Budget Act.

(b) The requirement set forth in subdivision (a) that the department determine the amount of additional funds to be used for allocation to counties and allocate that amount to counties within 90 days, shall be waived when the 90-day period does not allow sufficient time for completion of the notification period pursuant to Section 28.00 of the Budget Act.

(c) As used in this section, “approved amended county plan” means a county plan amended by a county to describe the county’s proposed use of the additional or reduced funds available pursuant to this section, which plan is approved by the department.

(d) As used in this section, “executed negotiated net amount contract” or “amended Drug Medi-Cal contract” refers to a contract that is amended by a county to describe the county’s proposed use of the additional or reduced funds available pursuant to this section, which contract is approved by the department.

SEC. 87. Section 11817.4 of the Health and Safety Code is amended to read:



11817.4. Alcohol and other drug service expenditures made by counties pursuant to this part shall be paid by the state pursuant to this part.

SEC. 88. Section 11817.8 of the Health and Safety Code is repealed.

SEC. 89. Section 11817.8 is added to the Health and Safety Code, to read:

11817.8. (a) It is the intent of the Legislature that the state and the counties work together to minimize audit exceptions. Audit findings as contained in the department audit reports may be appealed by counties directly to the department. Counties may retain disputed audit amounts of state and federal funds unless an audit appeal is filed, and then until the audit appeal is resolved, in whole or in part, against the county.

(b) The department shall audit the expenditures of counties, direct contractors, and subcontractors. The department shall develop an annual audit plan that will identify the counties, direct contractors, and subcontractors funded in whole or in part with the funds administered by the department. The annual audit plan shall consist of a sufficient number of audits and financial reviews to provide reasonable assurance that federal and state funds have been used for their intended purpose in accordance with applicable funding requirements and restrictions contained in statutes, regulations, and contracts.

(c) The department may conduct audits and financial related reviews on other than a routine basis of any county, direct contractor, or county subcontractor funded in whole or in part with funds administered by the department, as the department deems necessary and appropriate.

(d) Counties may audit the expenditures of organizations funded in whole or in part with funds administered by the department.

(e) Notwithstanding subdivision (e) of Section 11758.12, counties shall repay to the department amounts of state and federal funds found, as a result of an audit, not to have been expended in accordance with the requirements set forth in this part, federal block grant law, federal or state regulations pertaining to alcohol or other drug abuse services, and the conditions set forth in any contract or interagency agreement. For organizations or services and the conditions set forth in any combination of state, federal,



or other public funds, where a clear audit trail shows that the source and application of these funds is not maintained, repayment shall be determined by prorating audit findings between each funding source.

(f) For those audits conducted by the department, the director shall administratively establish policies and procedures for the resolution of disputed audit findings. The department shall consult with county administrators when proposing changes in the procedures for the resolution of disputed audit findings.

(g) There is established in the State Treasury an Audit Repayment Trust Fund. All undisputed repayments of state funds made pursuant to subdivision (e) and all repayments of state funds resulting from an audit resolution procedure established pursuant to subdivision (f) shall be deposited in this fund. The money in the fund shall be available upon appropriation by the Legislature.

(h) The department may deny or withhold payments or advances of funds to a county if the department finds, by audit or otherwise, that a program is not in compliance with this part, the net amount contract, and Drug Medi-Cal contract, whichever is applicable.

(i) Notwithstanding subdivision (a) of Section 53134 of the Government Code, audits performed pursuant to this section shall be conducted by qualified state or local government auditors or independent public accountants in accordance with generally accepted governing auditing standards, as prescribed by Government Auditing Standards, issued by the Comptroller General of the United States. These audits shall be completed no later than six months after the completion of the audit fieldwork.

SEC. 90. Section 11818 of the Health and Safety Code is amended to read:

11818. (a) (1) Expenditures made by counties and contract providers that may be paid using appropriated funds subject to payment include salaries of personnel, approved facilities and services provided through contract, operation, maintenance, and service costs, depreciation of county facilities as established in the State of California's Auditing Standards and Procedures for Counties, disregarding depreciation on the county facility to the extent it was financed by state funds under this part, lease of facilities where there is no intention to, nor option to, purchase, and other expenditures that may be approved by the director.



(2) Expenditures made by counties and contract providers that may not be paid using appropriated funds subject to payment include expenditures for initial capital improvement, the purchase or construction of buildings, except for equipment items and remodeling expenses as may be provided in regulations of the department, compensation to members of a local advisory board on drug programs, except actual and necessary expenses incurred in the performance of official duties, and expenditures for a purpose for which state reimbursement is claimed under any other law.

(b) (1) Except as provided in Chapter 3 (commencing with Section 11758.10), the cost of services specified in the county plan, negotiated net amount contract, and Drug Medi-Cal contract, whichever is applicable, shall be based upon reimbursement of actual costs as determined with standard accounting practices. The county may enter into contracts with providers at actual cost or a negotiated rate. Negotiated rate is a specific and fixed dollar rate for a specified unit of service provided. Negotiated rates may be used as the cost of services only between the county and private providers. The negotiated rate shall be approved by the county prior to commencing services for reimbursement and the rate shall be based upon the projected cost of providing the services and projected revenues realized as a result of providing the services. The provider shall make available to the county information on prior years' actual cost of providing the services and actual revenues.

(2) (A) Providers that receive a combination of Medi-Cal funding and other federal or state funding for the same service element and location shall be reimbursed for actual costs as limited by Medi-Cal reimbursement requirements, as specified in Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.), the medicaid state plan, subdivisions (c) and (d) of Section 51516 of Title 22 of the California Code of Regulations, except that reimbursement for non-Medi-Cal services shall not be limited by Medi-Cal rate requirements or customary charges to privately paying clients.

(B) For those providers who operate under a negotiated rate for non-Medi-Cal services, the rates shall be treated as provisional rates, subject to yearend settlement of actual costs.



(3) Notwithstanding any other provision of law, during yearend settlements, the department may pay, from both state and federal funds, prior fiscal year allowable Medi-Cal costs incurred by June 30 of the prior fiscal year that exceed the amount timely encumbered in the prior fiscal year contract.

SEC. 91. Section 11818.5 of the Health and Safety Code is amended to read:

11818.5. (a) Counties shall submit a cost report reflecting the expenditure of funds allocated by the department. An annual cost report for the fiscal year ending June 30 shall be submitted to the department by November 1.

(b) Each county shall be responsible for reviewing its contracts with providers of services and the department may audit these contracts. The cost reports shall be reviewed by the department and interim settlements of claims shall be made expeditiously with each county. Final settlement shall be made at the time of audit, which shall be completed within three years of the date the cost report was accepted for interim settlement by the department. If the audit is not completed within three years, the interim settlement shall be considered as the final settlement.

(c) Counties shall report estimated numbers and characteristics of clients-participants by type of service in the county plan and shall report actual numbers and characteristics of clients-participants served by type of service with the annual cost report. The department shall specify forms and procedures to be followed in reporting this information. The fiscal reporting system established pursuant to this section shall supersede the requirements of paragraph (2) of subdivision (b) of Section 16366.7 of the Government Code for a quarterly fiscal reporting system.

SEC. 92. Section 11820 of the Health and Safety Code is amended to read:

11820. The Legislature recognizes the potential positive impact that federal, state, and local health planning agencies can have on the alleviation of alcohol and other drug problems through better coordinated planning and utilization of limited health resources. The Legislature encourages persons concerned with alcohol and other drug problems to become involved as much as possible as representatives on health planning agencies, and



committees thereof, and in providing advice and comments on health plans of those agencies.

SEC. 93. Section 11820.1 of the Health and Safety Code is amended to read:

11820.1. The department shall work together with the Office of Statewide Health Planning and Development and any other statewide health planning agencies created pursuant to Public Law 93-641 in the preparation and implementation of the state health plan required under that act. The department shall seek the advice and comments of public and private agencies and individuals concerned with alcohol and other drug problems prior to submission by the department of any draft plans to the office.

SEC. 94. Section 11825 of the Health and Safety Code is amended to read:

11825. The department may establish reasonable criteria to evaluate the performance of programs and services that are described in the county plan.

SEC. 95. Section 11826 of the Health and Safety Code is amended to read:

11826. The department may do all of the following:

- (a) Review and conduct evaluation studies of service delivery to clients in programs receiving state allocated funds.
- (b) Conduct investigative reporting.
- (c) Disseminate evaluation studies, reports, articles, and other reference documents.
- (d) Evaluate the administration of county alcohol and other drug programs to determine whether the county provides for adequate administration of the county alcohol and other drug program.

SEC. 96. Section 11827 of the Health and Safety Code is amended to read:

11827. The Legislature recognizes that local program effectiveness may be evaluated in a variety of ways, but should reflect the needs and priorities of the local community and attempt to measure the achievement of objectives determined through the planning process described in this part. The Legislature further recognizes that the conducting of these evaluations is essential to holding county alcohol and other drug programs accountable for their use of state funds and increasing program effectiveness. The Legislature recognizes the beneficial results of the local evaluation



process to those participating in this process, as described in the county plan.

The Legislature desires to encourage experimentation and diversity in the methods utilized by counties to evaluate the county alcohol and other drug programs' achievement of their objectives, including, but not limited to, evaluations of individuals' progress, changes in utilization rates, changes in community attitudes, and measurement of specific programmatic goals in order to advance our knowledge about the effectiveness of programs in alleviating alcohol and other drug problems.

SEC. 97. Section 11828 of the Health and Safety Code is amended to read:

11828. Each county shall assure the evaluation of all state-funded programs to determine whether they have achieved their objectives as determined in the planning process. In addition, recognizing the difficulty and expense of conducting effective county alcohol and other drug program evaluation, the department may assist counties in developing evaluation designs for implementation by counties to measure progress of alcohol or other drug users, changes in community attitudes toward inappropriate alcohol use and other drug problems, changes in the incidence and prevalence of alcohol and other drug problems within the county, or other objectives identified in the planning process. The department, in cooperation with counties that choose to participate, may assist and fund counties to implement the evaluation designs developed. Counties may contract with public or private agencies and utilize funds allocated under this part for purposes of conducting the evaluations.

SEC. 98. Section 11830 of the Health and Safety Code, as amended by Section 2 of Chapter 919 of the Statutes of 1989, is amended to read:

11830. The department shall take the following goals and objectives into consideration in the implementation of this chapter:

(a) The significance of community-based programs to alcohol and other drug abuse recovery shall not be diminished.

(b) Opportunities for low-income and special needs populations to receive alcohol and other drug abuse recovery or treatment services shall be encouraged.



SEC. 99. Section 11830 of the Health and Safety Code, as amended by Section 64 of Chapter 938 of the Statutes of 1995, is amended and renumbered to read:

11830.1. In order to ensure quality assurance of alcohol and other drug programs and expand the availability of funding resources, the department shall implement a program certification procedure for alcohol and other drug treatment recovery services funded under this part. The department, after consultation with the County Alcohol and Drug Program Administrators Association of California, and other interested organizations and individuals, shall develop standards and regulations for the alcohol and other drug treatment recovery services describing the minimal level of service quality required of the service providers to qualify for and obtain state certification. The standards shall be excluded from the rulemaking requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). Compliance with these standards shall be voluntary on the part of programs. For the purposes of Section 2626.2 of the Unemployment Insurance Code, certification shall be equivalent to program review.

SEC. 100. Section 11830.5 of the Health and Safety Code is amended to read:

11830.5. (a) The department, in consultation with the county alcohol and drug program administrators and other interested organizations and individuals, shall develop program standards specific to each type of residential and nonresidential program, to be used during its certification process. These standards shall be advisory only and are excluded from the provisions of Section 11340.5 of the Government Code and other rulemaking requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), and Chapter 8 (commencing with Section 11835).

(b) The program standards shall include, but not be limited to, both of the following:

(1) Recognition and characterization of different approaches and solutions to the alcohol and drug problems that the department determines have sufficient merit for a separate standard.

(2) Reference to the needs of youth, the elderly, women, pregnant women, mothers and their children, gays, lesbians, the



disabled, and special populations, with recognition of innovative solutions to the problems of those special populations.

(c) The program standards shall serve as educational documents to inform the public of the current state-of-the-art in effective and cost-efficient alcohol and drug problem programming.

SEC. 101. Section 11831 of the Health and Safety Code, as added by Section 64 of Chapter 1328 of the Statutes of 1984, is amended and renumbered to read:

11831.2. The department may charge a reasonable fee as the department deems necessary for the certification or renewal certification of a program that voluntarily requests the certification. The fee shall be set at a level sufficient to cover administrative costs of the program certification process incurred by the department. In calculating the administrative costs, the department shall include staff salaries and benefits, related travel costs, and state operational and administrative costs.

SEC. 102. Section 11831.5 of the Health and Safety Code is amended to read:

11831.5. (a) Certification shall be granted by the department pursuant to this section to any alcoholism or drug abuse recovery or treatment program wishing to receive, and requesting, the certification regardless of the source of the program's funding.

(b) The purposes of certification under this section shall be all of the following:

(1) To identify programs that exceed minimal levels of service quality, are in substantial compliance with the department's standards, and merit the confidence of the public, third-party payers, and county alcohol and drug programs.

(2) To encourage programs to meet their stated goals and objectives.

(3) To encourage programs to strive for increased quality of service through recognition by the state and by peer programs in the alcoholism and drug field.

(4) To assist programs to identify their needs for technical assistance, training, and program improvements.

(c) Certification may be granted under this section on the basis of evidence satisfactory to the department that the requesting alcoholism or drug abuse recovery or treatment program has an accreditation by a statewide or national alcohol or drug program



accrediting body. The accrediting body shall provide accreditation that meets or exceeds the department's standards and is recognized by the department.

(d) No fee shall be levied by the department for certification of nonprofit organizations or local governmental entities under this section.

(e) Certification, or the lack thereof, shall not convey any approval or disapproval by the department, but shall be for information purposes only.

(f) The standards developed pursuant to Section 11830 and the certification under this section shall satisfy the requirements of Section 1463.16 of the Penal Code.

(g) The department and the State Department of Social Services shall enter into a memorandum of understanding to establish a process by which the Department of Alcohol and Drug Programs can certify residential facilities or programs serving primarily adolescents, as defined in paragraph (1) of subdivision (a) of Section 1502, that have programs that primarily serve adolescents and provide alcohol and other drug recovery or treatment services.

SEC. 103. Section 11835 of the Health and Safety Code is amended to read:

11835. (a) The purposes of any regulations adopted by the department shall be to implement, interpret, or make specific the provisions of this part and shall not exceed the authority granted to the department pursuant to this part. To the extent possible, the regulations shall be written in clear and concise language and adopted only when necessary to further the purposes of this part.

(b) Except as provided in this section, the department may adopt regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of the Title 2 of the Government Code) necessary for the proper execution of the powers and duties granted to and imposed upon the department by this part. However, these regulations may be adopted only upon the following conditions:

(1) Prior to adoption of regulations, the department shall consult with county alcohol and drug program administrators and may consult with any other appropriate persons relating to the proposed regulations.



(2) If an absolute majority of the designated county alcohol and drug program administrators who represent counties that have submitted county plans, negotiated net amount contracts, or Drug Medi-Cal contracts, vote at a public meeting called by the department, for which 45 days' advance notice shall be given by the department, to reject the proposed regulations, the department shall refer the matter for a decision to a committee, consisting of a representative of the county alcohol and drug program administrators, the director, the secretary, and one designee of the secretary. The decision shall be made by a majority vote of this committee at a public meeting convened by the department. Upon a majority vote of the committee recommending adoption of the proposed regulations, the department may then adopt them. Upon a majority vote recommending that the department not adopt the proposed regulations, the department shall then consult again with the county alcohol and drug program administrators and resubmit the proposed regulations to the administrators for a vote pursuant to this subdivision.

(3) In the voting process described in paragraph (2), no proxies shall be allowed nor may anyone other than the designated county alcohol and drug program administrator, director, secretary, and secretary's designee vote at the meetings.

SEC. 104. The heading of Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code is amended to read:

CHAPTER 9. SERVICES TO PERSONS CONVICTED FOR DRIVING WHILE UNDER THE INFLUENCE OF ALCOHOL AND OTHER DRUGS

SEC. 105. Section 11836 of the Health and Safety Code is amended to read:

11836. (a) The department shall have the sole authority to issue, deny, suspend, or revoke the license of a driving-under-the-influence program. As used in this chapter, "program" means any firm, partnership, association, corporation, local governmental entity, agency, or place that has been initially recommended by the county board of supervisors, subject to any limitation imposed pursuant to subdivisions (c) and (d), and that is subsequently licensed by the department to provide alcohol or drug recovery services in that county to any of the following:



(1) A person whose license to drive has been administratively suspended or revoked for, or who is convicted of, a violation of Section 23152 or 23153 of the Vehicle Code, and admitted to a program pursuant to Section 13352, 23538, 23542, 23548, 23552, 23556, 23562, or 23568 of the Vehicle Code.

(2) A person who is convicted of a violation of subdivision (b), (c), (d), or (e) of Section 655 of the Harbors and Navigation Code, or of Section 655.4 of that code, and admitted to the program pursuant to Section 668 of that code.

(3) A person who has pled guilty or nolo contendere to a charge of a violation of Section 23103 of the Vehicle Code, under the conditions set forth in subdivision (c) of Section 23103.5 of the Vehicle Code, and who has been admitted to the program under subdivision (e) of Section 23103.5 of the Vehicle Code.

(4) A person whose license has been suspended, revoked, or delayed due to a violation of Section 23140, and who has been admitted to a program under Article 2 (commencing with Section 23502) of Chapter 1 of Division 11.5 of the Vehicle Code.

(b) If a firm, partnership, corporation, association, local government entity, agency, or place has, or is applying for, more than one license, the department shall treat each licensed program, or each program seeking licensure, as belonging to a separate firm, partnership, corporation, association, local government entity, agency, or place for the purposes of this chapter.

(c) For purposes of providing recommendations to the department pursuant to subdivision (a), a county board of supervisors may limit its recommendations to those programs that provide services for persons convicted of a first driving-under-the-influence offense, or services to those persons convicted of a second or subsequent driving-under-the-influence offense, or both services. If a county board of supervisors fails to provide recommendations, the department shall determine the program or programs to be licensed in that county.

(d) After determining a need, a county board of supervisors may also place one or more limitations on the services to be provided by a driving-under-the-influence program or the area the program may operate within the county, when it initially recommends a program to the department pursuant to subdivision (a).



(1) For purposes of this subdivision, a board of supervisors may restrict a program for those convicted of a first driving-under-the-influence offense to providing only a three-month program, or may restrict a program to those convicted of a second or subsequent driving-under-the-influence offense to providing only an 18-month program, as a condition of its recommendation.

(2) A board of supervisors may not place any restrictions on a program that would violate any statute or regulation.

(3) When recommending a program, if a board of supervisors fails to place any limitation on a program pursuant to this subdivision, the department may license that program to provide any driving-under-the-influence program services that are allowed by law within that county.

(4) This subdivision is intended to apply only to the initial recommendation to the department for licensure of a program by the county. It is not intended to affect any license that has been previously issued by the department or the renewal of any license for a driving-under-the-influence program. In counties where a contract or other written agreement is currently in effect between the county and a licensed driving-under-the-influence program operating in that county, this subdivision is not intended to alter the terms of that relationship or the renewal of that relationship.

SEC. 106. Section 11837.2 of the Health and Safety Code is amended to read:

11837.2. (a) (1) The court may refer persons only to licensed programs. Subject to these provisions, a person is eligible to participate in the program if the program is operating in any of the following:

(A) The county where the person is convicted.

(B) The county where the person resides.

(C) A county that has an agreement with the person's county of residence pursuant to Section 11838.

(D) A county to which a person may request transfer pursuant to subdivision (d).

(2) If a person granted probation under Section 23542 or 23562 of the Vehicle Code cannot be referred to a licensed 18-month program pursuant to this section, Section 13352.5 of the Vehicle Code does not apply.



(b) If a person has consented to participate in a licensed program and the county where the person is convicted is the same county in which the person resides, the court may order the person to participate in a licensed program within that county, or, if that county does not have a licensed program, the court may order that person to participate in a licensed program within another county, pursuant to Section 11838.

(c) If a person has consented to participate in a licensed program in the county in which that person resides or in a county in which the person's county of residence has an agreement pursuant to Section 11838, and the county where the person is convicted is not the county where the person resides, and if the court grants the person summary probation, the court may order the person to participate in a licensed program in that county. In lieu of summary probation, the court may utilize the probation officer to implement the orders of the court. If the county in which the person resides does not have a licensed program or an agreement with another county pursuant to Section 11838 and the person consents, the court may order the person to participate in a licensed program within the county where that person is convicted or in a county with which the county has an agreement pursuant to Section 11838.

(d) Except as otherwise provided in subdivision (e), subsequent to a person's commencement of participation in a program, the person may request transfer to another licensed program (1) in the same county in which the person has commenced participation in the program, upon approval of that county's alcohol and drug program administrator, or (2) in a county other than the county in which the person has commenced participation in the program, upon approval of the alcohol and drug program administrator of the county in which the person is participating and the county to which the person is requesting transfer.

(e) Subdivision (d) does not apply (1) if the court has ordered the person to participate in a specific licensed program, unless the court orders the transfer or, (2) if the person is under formal probation, unless the probation officer consents to the transfer. The department shall establish reporting forms and procedures to ensure that the court receives notice of any program transfer pursuant to this subdivision or subdivision (d).



(f) Jurisdiction of all postconviction matters arising pursuant to this section may be retained by the court of conviction.

(g) The department, in cooperation with the Department of Motor Vehicles and the county alcohol and drug program administrators, shall establish procedures to ensure the effective implementation of this section.

SEC. 107. Section 11837.3 of the Health and Safety Code is amended to read:

11837.3. (a) (1) Each county, through the county alcohol and drug program administrator, shall determine its ability to establish, through public or private resources, a program of alcohol and other drug education and counseling services for a person whose license to drive has been administratively suspended or revoked for, or who is convicted of, a first violation of Section 23152 or 23153 of the Vehicle Code, or who is convicted of a violation of subdivision (b), (c), (d), or (e) of Section 655 of, or Section 655.4 of, the Harbors and Navigation Code, pursuant to subdivisions (e) and (f) of Section 668 of the Harbors and Navigation Code. The program shall be self-supporting through fees collected from program participants. The program shall be of at least three months' duration and consist of at least 30 hours of direct education and counseling services. The program shall be authorized by each county and licensed by, and operated under general regulations established by, the department.

(2) (A) A county that shows the department that it has insufficient resources, insufficient potential program participants, or other material disadvantages is not required to establish a program.

(B) The department may license an alcohol and other drug education program that is less than 30 hours in length in any county where the board of supervisors has provided the showing pursuant to subparagraph (A), and the department has upheld that showing. The shorter program is subject to all other applicable regulations developed by the department pursuant to paragraph (3) of subdivision (b) of Section 11837.4.

(b) Each county that has approved an alcohol and other drug education program or programs and that is licensed by the department shall make provision for persons who can document current inability to pay the program fee, in order to enable those persons to participate. The county shall require that the program



report the failure of a person referred to the program to enroll in the program to the referring court.

(c) In order to assure effectiveness of the alcohol and other drug education and counseling program, the county shall provide, as appropriate, services to ethnic minorities, women, youth, or any other group that has particular needs related to the program.

(d) (1) Any person required to successfully complete an alcohol and other drug education and counseling program as a condition of probation shall enroll in the program and, except when enrollment is required in a program that is required to report failures to enroll to the court, shall furnish proof of the enrollment to the court within the period of time and in the manner specified by the court. The person also shall participate in and successfully complete the program, and shall furnish proof of successful completion within the period of time and in the manner specified by the court.

(2) An alcohol and other drug education and counseling program shall report to the court, within the period of time and in the manner specified by the court, the name of any person who fails to successfully complete the program.

SEC. 108. Section 11837.4 of the Health and Safety Code is amended to read:

11837.4. (a) No program, regardless of how it is funded, may be licensed unless all of the requirements of this chapter and of the regulations adopted pursuant to this chapter have been met.

(b) Each licensed program shall include, but not be limited to, the following:

(1) For the alcohol or drug education and counseling services programs specified in subdivision (b) of Section 11837, each program shall provide for close and regular face-to-face interviews. For the 18-month programs specified in subdivision (a) of Section 11837, each program shall provide for close and regular supervision of the person, including face-to-face interviews at least once every other calendar week, regarding the person's progress in the program for the first 12 months of the program and shall provide only community reentry supervision during the final six months of the program. In the last six months of the 18-month program, the provider shall monitor the participant's community reentry activity with self-help groups, employment, family, and other areas of self-improvement. Unless



otherwise ordered by the court, the provider's monitoring services are limited to not more than six hours. For the 30-month programs specified in subdivision (b) of Section 23548, subdivision (b) of Section 23552, and subdivision (b) of Section 23568 of the Vehicle Code, each program shall provide for close and regular supervision of the person, including regular, scheduled face-to-face interviews over the course of 30 months regarding the person's progress in the program and recovery from problem drinking, alcoholism, chemical dependency, or polydrug abuse, as prescribed by regulations of the department. The interviews in any of those programs shall be conducted individually with each person being supervised and shall occur at times other than when the person is participating in any group or other activities of the program. No program activity in which the person is participating shall be interrupted in order to conduct the individual interviews.

(2) (A) The department shall approve all fee schedules for the programs and shall require that each program be self-supporting from the participants' fees and that each program provide for the payment of the costs of the program by participants at times and in amounts commensurate with their ability to pay in order to enable these persons to participate. Each program shall make provisions for persons who can successfully document current inability to pay the fees. Only the department may establish the criteria and procedures for determining a participant's ability to pay. The department shall ensure that the fees are set at amounts that will enable programs to provide adequately for the immediate and long-term continuation of services required pursuant to this chapter. The fees shall be used only for the purposes set forth in this chapter, except that any profit or surplus that does not exceed the maximum level established by the department may be utilized for any purposes allowable under any other provisions of law. In its regulations, the department shall define, for the purposes of this paragraph, taking into account prudent accounting, management, and business practices and procedures, the terms "profits" and "surplus." The department shall fairly construe these provisions so as not to jeopardize fiscal integrity of the programs. The department may not license any program if the department finds that any element of the administration of the program does not assure the fiscal integrity of the program.



(B) Each program licensed by the department under this section may request an increase in the fees. The request for an increase shall initially be sent to the county alcohol and drug program administrator. The county alcohol and drug program administrator shall, within 30 days of receiving the request, forward it to the department with the administrator's recommendation that the fee increase be approved or disapproved.

(C) The administrator's recommendation shall, among other things, take into account the rationale that the program has provided to the administrator for the increase and whether that increase would exceed the profit or surplus limit established by the department.

(D) If the county alcohol and drug program administrator fails to forward the request to the department within the 30 days, the program may send the request directly to the department. In this instance, the department may act without the administrator's recommendation.

(E) The department shall, within 30 days of receiving the request pursuant to subparagraph (B) or (D) approve or disapprove the request. In making its decision, the department shall consider the matters described in subparagraph (C).

(3) The licensed programs described in paragraph (1) shall include a variety of treatment services for problem drinkers, alcoholics, chemical dependents, and polydrug abusers or shall have the capability of referring the persons to, and regularly and closely supervising the persons while in, any appropriate medical, hospital, or licensed residential treatment services or self-help groups for their problem drinking, alcoholism, chemical dependency, or polydrug abuse problem. In addition to the requirements of paragraph (1), the department shall prescribe in its regulations what other services the program shall provide, at a minimum, in the treatment of participants, which services may include lectures, classes, group discussions, group counseling, or individual counseling in addition to the interviews required by paragraph (1), or any combination thereof. However, any group discussion or counseling activity, other than classes or lectures, shall be regularly scheduled to consist of not more than 15 persons, except that they may, on an emergency basis, exceed 15, but not more than 17, persons, at any one meeting. At no time shall there be more than 17 persons in attendance at any one meeting. For the



30-month programs specified in subdivision (b) of Section 23548, subdivision (b) of Section 23552, and subdivision (b) of Section 23568 of the Vehicle Code, each licensed program shall include a method by which each participant shall maintain a compendium of probative evidence, as prescribed in the regulations of the department, on a trimonthly basis demonstrating a performance of voluntary community service by the participant, including, but not limited to, the prevention of drinking and driving, the promotion of safe driving, and responsible attitudes toward the use of chemicals of any kind, for not less than 120 hours and not more than 300 hours, as determined by the court, with one-half of that time to be served during the initial 18 months of program participation and one-half of that time to be served in the final 12 months. In determining whether or not the participant has met the objectives of the program, the compendium of evidence shall also include, and the court shall consider, the participant's demonstration of significant improvement in any of the following areas of personal achievement:

(A) Significant improvement in occupational performance, including efforts to obtain gainful employment.

(B) Significant improvement in physical and mental health.

(C) Significant improvement in family relations, including financial obligations.

(D) Significant improvement in financial affairs and economic stability.

The compendium of evidence shall be maintained by the participant for review by the program, court, probation officer, or other appropriate governmental agency. The program officials, unless prohibited by the referring court, shall make provisions for a participant to voluntarily enter, using the participant's own resources, a licensed chemical dependency recovery hospital or residential treatment program which has a valid license issued by the State of California to provide alcohol or drug services, and to receive three weeks of program participation credit for each week of that treatment, not to exceed 12 weeks of program participation credit, but only if the treatment is at least two weeks in duration. The program shall document probative evidence of this hospital or residential care treatment in the participant's program file.

(4) In order to assure program effectiveness, the department shall require, whenever appropriate, that the licensed program



provides services to ethnic minorities, women, youth, or any other group that has particular needs relating to the program.

(5) The goal of each program shall be to assist persons participating in the program to recognize their chemical dependency and to assist them in their recovery.

(6) Each program shall establish a method by which the court, the Department of Motor Vehicles, and the person are notified in a timely manner of the person's failure to comply with the program's rules and regulations.

(c) No program may be licensed unless the county complies with the requirements of subdivision (b) of Section 11812. The provider of a program that offers an alcohol or drug education and counseling services program, an 18-month program, or a 30-month program or any or all of those programs described in this section shall be required to obtain only one license. The department's regulations shall specify the requirements for the establishment of each program. The license issued by the department shall identify the program or programs licensed to operate.

(d) (1) Departmental approval for the establishment of a 30-month program by a licensed 18-month program is contingent upon approval by the county alcohol and drug program administrator, based upon confirmation that the program applicant is capable of providing the service and that the fiscal integrity of the program applicant will not be jeopardized by the operation of the program.

(2) The court shall refer a person to a 30-month treatment program only if a 30-month program exists or is provided for in the jurisdiction of the court.

(e) A county or program shall not prescribe additional program requirements unless the requirements are specifically approved by the department.

(f) The department may license a program on a provisional basis.

SEC. 109. Section 11837.6 of the Health and Safety Code is amended to read:

11837.6. (a) The major responsibility for assuring programmatic and fiscal integrity of each program rests with the county alcohol and drug program administrator of each county utilizing a program pursuant to this chapter.



(b) The county alcohol and drug program administrator shall assure, through monitoring at least once every six months, compliance with the applicable statutes and regulations by any licensed program within the county's jurisdiction. Whenever possible, the county monitoring shall coincide with the state licensing reviews. The county alcohol and drug program administrator shall prepare and submit, to the department and the program provider, an annual written report of findings regarding the program's compliance with applicable statutes and regulations.

(c) The county alcohol and drug program administrator shall submit a description of each licensed program as part of the county plan.

(d) The county alcohol and drug program administrator shall notify the department, within 30 days of the date that a program's license is denied, suspended or revoked, of the individuals who failed to commence participation in another licensed program within 21 days of the license denial, suspension or revocation.

SEC. 110. Section 11837.7 of the Health and Safety Code is amended to read:

11837.7. (a) The county alcohol and drug program administrator, or the advisory board acting through the county alcohol and drug program administrator, shall inform the board of supervisors immediately if it is determined that any program is not meeting the regulations adopted by the department. The department shall be notified in writing by the county alcohol and drug program administrator of any program that is not in compliance with applicable statutes and regulations.

(b) The department, the county alcohol and drug program administrator, the chief probation officer, or their authorized representatives may enter, in a nondisruptive manner, any class, lecture, group discussion, or any other program element to observe these activities.

(c) Notwithstanding subdivision (a) of Section 11837.6, the department may audit, or contract for the auditing of, any licensed program.

SEC. 111. Section 11837.8 of the Health and Safety Code is amended to read:

11837.8. (a) The department shall authorize each county alcohol and drug program administrator to retain, in an amount not



in excess of that specified by the department, a portion of the fees charged for participation in the program that is sufficient to reimburse the county for the costs and expenses that the administrator reasonably incurs in discharging his or her duties pursuant to this chapter.

(b) A county may not use for any purpose set forth in this chapter any funds allocated to it by the department pursuant to Division 10.5 (commencing with Section 11750). The board of supervisors may authorize the use of any other funds for any purpose set forth in this chapter.

(c) Notwithstanding subdivision (b), a county with a population of 20,000 or less may utilize funds allocated by the department to establish and administer a program if the department finds that the county cannot establish a self-supporting program at reasonable cost or is unable to establish jointly a program with another county. If an exception is granted, reasonable effort shall be made by the county to observe the intent of subdivision (b) that programs be self-supporting.

SEC. 112. Section 11837.9 of the Health and Safety Code is amended to read:

11837.9. The participation of the probation department in a program established pursuant to this chapter shall be described in the amendment to the county plan.

SEC. 113. Section 11838.1 of the Health and Safety Code is amended to read:

11838.1. The department, in cooperation with the county and the Department of Motor Vehicles, shall establish uniform statewide reporting procedures and forms for the submission of any appropriate documents or information from boards of supervisors, administrators of programs, county alcohol and drug program administrators, and program participants to assure effective implementation of this chapter.

SEC. 114. Chapter 10 (commencing with Section 11839) is added to Part 2 of Division 10.5 of the Health and Safety Code, to read:



CHAPTER 10. NARCOTIC TREATMENT PROGRAMS

Article 1. Narcotic Treatment Programs

11839. The department, with the approval of the Secretary of the Health and Human Services Agency, may contract with any public or private agency for the performance of any of the functions vested in the department by this chapter. Any department of the state is authorized to enter into such a contract.

11839.1. The Legislature finds and declares that it is in the best interests of the health and welfare of the people of this state to coordinate narcotic treatment programs to use replacement narcotic therapy in the treatment of addicted persons whose addiction was acquired or supported by the use of a narcotic drug or drugs, not in compliance with a physician and surgeon's legal prescription, and to establish and enforce minimum requirements for the operation of all narcotic treatment programs in this state.

11839.2. The following controlled substances are authorized for use in replacement narcotic therapy by licensed narcotic treatment programs:

(a) Methadone.

(b) Levoalphacetylmethadol (LAAM) as specified in paragraph (10) of subdivision (c) of Section 11055.

11839.3. (a) In addition to the duties authorized by other statutes, the department shall perform all of the following:

(1) License the establishment of narcotic treatment programs in this state to use replacement narcotic therapy in the treatment of addicted persons whose addiction was acquired or supported by the use of a narcotic drug or drugs, not in compliance with a physician and surgeon's legal prescription, except that the Research Advisory Panel shall have authority to approve methadone or LAAM research programs. The department shall establish and enforce the criteria for the eligibility of patients to be included in the programs, program operation guidelines, such as dosage levels, recordkeeping and reporting, urinalysis requirements, take-home doses of methadone, security against redistribution of the replacement narcotic drugs, and any other regulations that are necessary to protect the safety and well-being of the patient, the local community, and the public, and to carry out this chapter. A program may admit a patient to narcotic



maintenance or narcotic detoxification treatment seven days after completion of a prior withdrawal treatment episode. The arrest and conviction records and the records of pending charges against any person seeking admission to a narcotic treatment program shall be furnished to narcotic treatment program directors upon written request of the narcotic treatment program director provided the request is accompanied by a signed release from the person whose records are being requested.

(2) Inspect narcotic treatment programs in this state and ensure that programs are operating in accordance with the law and regulations. The department shall have sole responsibility for compliance inspections of all programs in each county. Annual compliance inspections shall consist of an evaluation by onsite review of the operations and records of licensed narcotic treatment programs' compliance with applicable state and federal laws and regulations and the evaluation of input from local law enforcement and local governments, regarding concerns about the narcotic treatment program. At the conclusion of each inspection visit, the department shall conduct an exit conference to explain the cited deficiencies to the program staff and to provide recommendations to ensure compliance with applicable laws and regulations. The department shall provide an inspection report to the licensee within 30 days of the completed onsite review describing the program deficiencies. A corrective action plan shall be required from the program within 30 days of receipt of the inspection report. All corrective actions contained in the plan shall be implemented within 30 days of receipt of approval by the department of the corrective action plan submitted by the narcotic treatment program. For programs found not to be in compliance, a subsequent inspection of the program shall be conducted within 30 days after the receipt of the corrective action plan in order to ensure that corrective action has been implemented satisfactorily. Subsequent inspections of the program shall be conducted to determine and ensure that the corrective action has been implemented satisfactorily. For purposes of this requirement, "compliance" shall mean to have not committed any of the grounds for suspension or revocation of a license provided for under subdivision (a) of Section 11839.9 or paragraph (2) of subdivision (b) of Section 11839.9. Inspection of narcotic treatment programs shall be based on objective criteria including,



but not limited to, an evaluation of the programs' adherence to all applicable laws and regulations and input from local law enforcement and local governments. Nothing in this section shall preclude counties from monitoring their contract providers for compliance with contract requirements.

(3) Charge and collect licensure fees. In calculating the licensure fees, the department shall include staff salaries and benefits, related travel costs, and state operational and administrative costs. Fees shall be used to offset licensure and inspection costs not to exceed actual costs.

(4) Study and evaluate, on an ongoing basis, narcotic treatment programs including, but not limited to, the adherence of the programs to all applicable laws and regulations and the impact of the programs on the communities in which they are located.

(5) Provide advice, consultation, and technical assistance to narcotic treatment programs to ensure that the programs comply with all applicable laws and regulations and to minimize any negative impact that the programs may have on the communities in which they are located.

(6) In its discretion, to approve local agencies or bodies to assist it in carrying out this chapter provided that the department may not delegate responsibility for inspection or any other licensure activity without prior and specific statutory approval. However, the department shall evaluate recommendations made by county alcohol and drug program administrators regarding licensing activity in their respective counties.

(7) The director may grant exceptions to the regulations adopted under this chapter if he or she determines that this action would improve treatment services or achieve greater protection to the health and safety of patients, the local community, or the general public. No exception may be granted if it is contrary to, or less stringent than, the federal laws and regulations which govern narcotic treatment programs.

(b) It is the intent of the Legislature in enacting this section in order to protect the general public and local communities, that self-administered dosage shall only be provided when the patient is clearly adhering to the requirements of the program, and where daily attendance at a clinic would be incompatible with gainful employment, education, and responsible homemaking. The department shall define "satisfactory adherence" and shall ensure



that patients not satisfactorily adhering to their programs shall not be provided take-home dosage.

(c) There is established in the State Treasury the Narcotic Treatment Program Licensing Trust Fund. All licensure fees collected from the providers of narcotic treatment service shall be deposited in this fund. Except as otherwise provided in this section, if funds remain in this fund after appropriation by the Legislature and allocation for the costs associated with narcotic treatment licensure actions and inspection of narcotic treatment programs, a percentage of the excess funds shall be annually rebated to the licensees based on the percentage their licensing fee is of the total amount of fees collected by the department. A reserve equal to 10 percent of the total licensure fees collected during the preceding fiscal year may be held in each trust account to reimburse the department if the actual cost for the licensure and inspection exceed fees collected during a fiscal year.

(d) Notwithstanding any provision of this code or regulations to the contrary, the department shall have sole responsibility and authority for determining if a state narcotic treatment program license shall be granted and for administratively establishing the maximum treatment capacity of any license. However, the department shall not increase the capacity of a program unless it determines that the licensee is operating in full compliance with applicable laws and regulations.

11839.4. The department shall impose a civil penalty of one hundred dollars (\$100) per day for a program that fails to timely submit a corrective action plan, or to timely implement any corrective action when it has been found to not be in compliance with applicable laws and regulations as required in Section 11839.3.

11839.5. In addition to the duties authorized by other provisions, the department shall be responsible for licensing narcotic treatment programs to use replacement narcotic therapy in the treatment of addicted persons whose addiction was acquired or supported by the use of a narcotic drug or drugs, not in compliance with a physician and surgeon's legal prescription. No narcotic treatment program shall be authorized to use replacement narcotic therapy without first obtaining a license therefor as provided in this chapter. The department may license narcotic



treatment programs on an inpatient or outpatient basis, or both. The department may also grant a state narcotic treatment license.

11839.6. (a) The department shall establish a program for the operation and regulation of office-based narcotic treatment programs. An office-based narcotic treatment program established pursuant to this section shall meet either of the following conditions:

(1) Hold a primary narcotic treatment program license.

(2) Be affiliated and associated with a primary licensed narcotic treatment program. An office-based narcotic treatment program meeting the requirement of this paragraph shall not be required to have a license separate from the primary licensed narcotic treatment program with which it is affiliated and associated.

(b) For purposes of this section, “office-based narcotic treatment program” means a program in which interested and knowledgeable physicians and surgeons provide addiction treatment services, and in which community pharmacies supply necessary medication both to these physicians and surgeons for distribution to patients and through direct administration and specified dispensing services.

(c) Notwithstanding any other provision of law or regulation, including Section 10020 of Title 9 of the California Code of Regulations, an office-based narcotic treatment program in a remote site that is affiliated and associated with a licensed narcotic treatment program may be approved by the department, if all of the following conditions are met:

(1) A physician may provide office-based addiction services only if each office-based patient is registered as a patient in the licensed narcotic treatment program and both the licensed narcotic treatment program and the office-based narcotic treatment program ensure that all services required under Chapter 4 (commencing with Section 10000) of Division 4 of Title 9 of the California Code of Regulations for the management of narcotic addiction are provided to all patients treated in the remote site.

(2) A physician in an office-based narcotic treatment program may provide treatment for a maximum of 20 patients under the appropriate United States Drug Enforcement Administration registration. The primary licensed narcotic treatment program shall be limited to its total licensed capacity as established by the



department, including the patients of physicians in the office-based narcotic treatment program.

(3) The physicians in the office-based narcotic treatment program shall dispense or administer pharmacologic treatment for narcotic addiction that has been approved by the federal Food and Drug Administration such as levoalphacetylmethadol (LAAM) or methadone.

(4) Office-based narcotic treatment programs, in conjunction with primary licensed narcotic treatment programs, shall develop protocols to prevent the diversion of methadone. The department may develop regulations to prevent the diversion of methadone.

(d) For purposes of this section, “remote site” means a site that is geographically or physically isolated from any licensed narcotic treatment program. Therefore, the requirements in this subdivision regarding a remote site do not apply to an office-based narcotic treatment program that holds a primary narcotic treatment program license.

(e) In considering an office-based narcotic treatment program application, the department shall independently weigh the treatment needs and concerns of the county, city, or areas to be served by the program.

(f) Nothing in this section is intended to expand the scope of the practice of pharmacy.

11839.7. (a) (1) Each narcotic treatment program authorized to use replacement narcotic therapy in this state, except narcotic treatment research programs approved by the Research Advisory Panel, shall be licensed by the department.

(2) Each narcotic treatment program, other than a program owned and operated by the state, county, city, or city and county, shall, upon application for licensure and for renewal of a license, pay an annual license fee to the department. July 1 shall be the annual license renewal date.

(3) The department shall set the licensing fee at a level sufficient to cover all departmental costs associated with licensing incurred by the department, but the fee shall not, except as specified in this section, increase at a rate greater than the Consumer Price Index plus 5 percent. The fees shall include the department’s share of pro rata charges for the expenses of state government. The fee may be paid quarterly in arrears as determined by the department. Fees paid quarterly in arrears shall

be due and payable on the last day of each quarter except for the fourth quarter for which payment shall be due and payable no later than May 31. A failure of a program to pay renewal license fees by the due date shall give rise to a civil penalty of one hundred dollars (\$100) a day for each day after the due date. Second and subsequent inspection visits to narcotic treatment programs that are operating in noncompliance with the applicable laws and regulations shall be charged a rate of one-half the program's annual license fee or one thousand dollars (\$1,000), whichever is less, for each visit.

(4) Licensing shall be contingent upon determination by the department that the program is in compliance with applicable laws and regulations and upon payment of the licensing fee. A license shall not be transferable.

(5) (A) As used in this chapter, "quarter" means July, August, and September; October, November, and December; January, February, and March; and April, May, and June.

(B) As used in this chapter, "license" means a basic permit to operate a narcotic treatment program. The license shall be issued exclusively by the department and operated in accordance with a patient capacity that shall be specified, approved, and monitored solely by the department.

(b) Each narcotic treatment program, other than a program owned and operated by the state, county, city, or city and county, shall be charged an application fee that shall be at a level sufficient to cover all departmental costs incurred by the department in processing either an application for a new program license, or an application for an existing program that has moved to a new location.

(c) Any licensee that increases fees to the patient, in response to increases in licensure fees required by the department, shall first provide written disclosure to the patient of that amount of the patient fee increase that is attributable to the increase in the licensure fee. This provision shall not be construed to limit patient fee increases imposed by the licensee upon any other basis.

11839.8. The director may deny the application for initial issuance of a license if the applicant or any partner, officer, director, 10 percent or greater shareholder, or person proposed to be employed by the applicant under the authority of subdivision (c) of Section 2401 of the Business and Professions Code:



(a) Fails to meet the qualifications for licensure established by the department pursuant to this article. However, the director may waive any established qualification for licensure of a narcotic treatment program if he or she determines that it is reasonably necessary in the interests of the public health and welfare.

(b) Was previously the holder of a license issued under this article, and the license was revoked and never reissued or was suspended and not reinstated, or the holder failed to adhere to applicable laws and regulations regarding narcotic treatment programs while the license was in effect.

(c) Misrepresented any material fact in the application.

(d) Committed any act involving fraud, dishonesty, or deceit, with the intent to substantially benefit himself or herself or another or substantially injure another, and the act is substantially related to the qualification, functions, or duties of, or relating to, a narcotic treatment program license.

(e) Was convicted of any crime substantially related to the qualifications, functions, or duties of, or relating to, a narcotic treatment program license.

(f) The director, in considering whether to deny licensure under subdivision (d) or (e), shall determine whether the applicant is rehabilitated after considering all of the following criteria:

(1) The nature and severity of the act or crime.

(2) The time that has elapsed since the commission of the act or crime.

(3) The commission by the applicant of other acts or crimes constituting grounds for denial of the license under this section.

(4) The extent to which the applicant has complied with terms of restitution, probation, parole, or any other sanction or order lawfully imposed against the applicant.

(5) Other evidence of rehabilitation submitted by the applicant.

(g) With respect to any other license issued to an applicant to provide narcotic treatment services, violated any provision of this article or regulations adopted under this article that relate to the health and safety of patients, the local community, or the general public. Violations include, but are not limited to, violations of laws and regulations applicable to take-home doses of methadone, urinalysis requirements, and security against redistribution of replacement narcotic drugs. In these cases, the department shall deny the application for an initial license unless the department



determines that all other licensed narcotic treatment programs maintained by the applicant have corrected all deficiencies and maintained compliance for a minimum of six months.

11839.9. (a) The director shall suspend or revoke any license issued under this article, or deny an application to renew a license or to modify the terms and conditions of a license, upon any violation by the licensee of this article or regulations adopted under this article that presents an imminent danger of death or severe harm to any participant of the program or a member of the general public.

(b) The director may suspend or revoke any license issued under this article, or deny an application to renew a license or to modify the terms and conditions of a license, upon any of the following grounds and in the manner provided in this article:

(1) Violation by the licensee of any laws or regulations of the Substance Abuse and Mental Health Services Administration or the United States Department of Justice, Drug Enforcement Administration, that are applicable to narcotic treatment programs.

(2) Any violation that relates to the operation or maintenance of the program that has an immediate relationship to the physical health, mental health, or safety of the program participants or general public.

(3) Aiding, abetting, or permitting the violation of, or any repeated violation of, any of the provisions set forth in subdivision (a) or in paragraph (1) or (2).

(4) Conduct in the operation of a narcotic treatment program that is inimical to the health, welfare, or safety of an individual in, or receiving services from, the program, the local community, or the people of the State of California.

(5) The conviction of the licensee or any partner, officer, director, 10 percent or greater shareholder, or person employed under the authority of subdivision (c) of Section 2401 of the Business and Professions Code at any time during licensure, of a crime substantially related to the qualifications, functions, or duties of, or relating to, a narcotic treatment program licensee.

(6) The commission by the licensee or any partner, officer, director, 10 percent or greater shareholder, or person employed under the authority of subdivision (c) of Section 2401 of the Business and Professions Code at any time during licensure, of any



act involving fraud, dishonesty, or deceit, with the intent to substantially benefit himself or herself or another, or substantially to injure another, and that act is substantially related to the qualifications, functions, or duties of, or relating to, a narcotic treatment program licensee.

(7) Diversion of narcotic drugs. A program's failure to maintain a narcotic drug reconciliation system that accounts for all incoming and outgoing narcotic drugs, as required by departmental or federal regulations, shall create a rebuttable presumption that narcotic drugs are being diverted.

(8) Misrepresentation of any material fact in obtaining the narcotic treatment program license.

(9) Failure to comply with a department order to cease admitting patients or to cease providing patients with take-home dosages of replacement narcotic drugs.

(10) Failure to pay any civil penalty assessed pursuant to paragraph (3) of subdivision (a) of Section 11839.16 where the penalty has become final, unless payment arrangements acceptable to the department have been made.

(11) The suspension or exclusion of the licensee or any partner, officer, director, 10 percent or greater shareholder, or person employed under the authority of subdivision (c) of Section 2401 of the Business and Professions Code from the Medicare, medicaid, or Medi-Cal programs.

(c) Prior to issuing an order pursuant to this section, the director shall ensure continuity of patient care by the program's guarantor or through the transfer of patients to other licensed programs. The director may issue any needed license or amend any other license in an effort to ensure that patient care is not impacted adversely by an order issued pursuant to this section.

11839.10. (a) The department shall cease review of an application for a license if either of the following occur:

(1) An application for a license indicates, or the department determines during the application inspection process, that the applicant was issued a license under this article and the prior license was revoked within the preceding two years. The department shall cease any further review of the application until two years have elapsed from the date of the revocation.

(2) An application for a license indicates, or the department determines during the application inspection process, that the



applicant was denied a license or had a license suspended under this article within the preceding year. The department shall cease any further review of the application until one year has elapsed from the date of the denial or suspension.

(b) The department may cease review of an application for license renewal if either of the following occur:

(1) The applicant has not paid the required license fee.

(2) The county in which the licensee is located certifies to the department's satisfaction that there is no need for the narcotic treatment program because of a substantial decline in medically qualified narcotic treatment patients in the licensee's catchment area, or clearly demonstrates that other applicants for licensure can provide more efficient, cost-effective, and sufficient narcotic treatment services in the catchment area, or that the license should not be renewed due to one of the grounds that are enumerated in Section 11839.9.

(c) Upon cessation of review, the license shall be permitted to expire by its own terms. However, if the licensee subsequently submits the items, the absence of which led to the cessation of review, the department may reinstate the license.

(d) Cessation of review shall not constitute a denial of the application for purposes of Sections 11839.8 and 11839.9.

11839.11. A narcotic treatment program license shall automatically terminate if the Substance Abuse and Mental Health Services Administration withdraws or revokes its approval of the program, or if the United States Department of Justice, Drug Enforcement Administration, revokes the program's registration.

11839.12. Except as provided in Section 11839.16, proceedings for the suspension, revocation, or denial of a license or cessation of review of a renewal license under this article, except where there has been a failure to pay required fees, under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and the department shall have all the powers granted thereby. In the event of conflict between this article and the Administrative Procedure Act, the Administrative Procedure Act shall prevail.

11839.13. (a) The withdrawal of an application for a license after it has been filed with the department shall not, unless the department consents in writing to the withdrawal, deprive the



department of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any ground provided by law.

(b) The suspension, expiration, or forfeiture by operation of law of a license issued by the department, or its suspension, forfeiture, or cancellation by order of the department or by order of a court of law, or its surrender without the written consent of the department, shall not deprive the department of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee upon any ground provided by law.

11839.14. For purposes of this article, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Section 1203.4 or 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this article, the record of conviction, or a certified copy thereof, shall be conclusive evidence of the conviction.

11839.15. The director may bring an action to enjoin the violation of Section 11839.7, or the violation of a departmental order issued pursuant to Section 11839.16, in the superior court in and for the county in which the violation occurred. Any proceeding under this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure. The rebuttable presumption set forth in paragraph (7) of subdivision (b) of Section 11839.9 shall be applicable. If the court finds the allegations to be true, it shall issue its order enjoining the narcotic treatment program from continuance of the violation.

11839.16. (a) (1) The director shall, in addition to any other remedy, issue an order that prohibits a narcotic treatment program from admitting new patients or from providing patients with



take-home dosages of a narcotic drug if the director determines, pursuant to the compliance inspection procedures set out in paragraph (2) of subdivision (a) of Section 11839.3, that a program has done any of the following:

(A) Failed to provide adequate security measures over its narcotic drug supply as agreed in the program's approved protocol.

(B) Failed to maintain a narcotic drug reconciliation system that accounts for all incoming and outgoing narcotic drugs.

(C) Diverted narcotic drugs.

(D) Repeatedly violated one or more departmental or federal regulations governing narcotic treatment programs, which violations may subject, or may have subjected, a patient to a health or life-endangering situation.

(E) Repeatedly violated one or more departmental or federal regulations governing the provisions of take-home medication.

(F) Operated above combined licensed capacity for maintenance and detoxification programs at a single location.

(2) (A) The order becomes effective when the department serves the program with a copy of the order. The order shall state the deficiencies forming the basis for the order and shall state the corrective action required for the department to vacate the order. The order, as it pertains to subparagraph (F) only, shall automatically be vacated when the department receives the program's written notification that licensed capacity has been achieved. If the order is issued pursuant to subparagraph (A), (B), (C), (D), or (E), the department shall vacate the order when the program submits a corrective action plan that reasonably addresses the deficiency or substantially conforms to the required action set out in the order.

(B) The department shall notify the program that the corrective action plan is accepted or rejected within 10 working days after receipt of the plan. If the department rejects the corrective action plan, it shall detail its reason in writing. The department order is vacated when the department either accepts a corrective action plan and ensures substantial conformity with the required action set out in the order or fails to reject a plan within 10 working days after receipt of the plan.

(3) In addition to any other remedies, a failure of the program to comply with the order of the department under this subdivision



shall give rise to a civil penalty of five hundred dollars (\$500) a day for each day that the order is violated.

(4) All civil penalties collected by the department under paragraph (3) shall be deposited in the Narcotic Treatment Program Licensing Trust Fund, and shall be used to offset the department's costs associated with collecting the civil penalties, or associated with any civil, administrative, or criminal action against the program when appropriated for this purpose.

(b) (1) The director may, in addition to any other remedy, issue an order temporarily suspending a narcotic treatment program license prior to any administrative hearing for the reasons stated in subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a) when the department determines pursuant to the compliance inspection procedures set out in paragraph (2) of subdivision (a) of Section 11839.3, that the action is necessary to protect patients of the program from any substantial threat to their health or safety, or to protect the health or safety of the local community or the people of the State of California. Prior to issuing the order, the director shall ensure continuity of patient care by the program's guarantor or through the transfer of patients to other licensed programs. The director may issue any needed license or amend any other license in his or her effort to assure that patient care is not impacted adversely by the suspension order.

(2) The director shall notify the licensee of the temporary suspension and the effective date thereof and at the same time shall serve the licensee with an accusation. Upon receipt of a notice of defense to the accusation by the licensee, the director shall, within 15 days, set the matter for hearing, and the hearing shall be held as soon as possible, but not later than 20 days, exclusive of weekends, after receipt of the notice. The temporary suspension shall remain in effect until the hearing is completed and the director has made a final determination on the merits. However, the temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 20 days after the original hearing has been completed. Failure to cease operating after the department issues an order temporarily suspending the license shall constitute an additional ground for license revocation and shall constitute a violation of Section 11839.8. The department shall suspend the program's license if the hearing outcome is adverse to the license. The department shall



notify the program of the license suspension within five days of the director's final decision.

(c) A program may, at any time after it is served with an order, petition the superior court to review the department's issuance of an order or rejection of a corrective action plan.

11839.17. (a) In cases where a program is closing and the licensed entity that has agreed to assume temporary operation of the closing program is unable to do so, the department may assume temporary operation of the closing program or designate another licensed entity willing to do so. In cases where the licensed entity that has agreed to assume temporary operation is the subject of a pending licensing action or order issued pursuant to Section 11839.16, the department may issue an order prohibiting the entity from assuming temporary operation and may assume temporary operation of the closing program or designate another licensed entity willing to do so. This section shall not be construed to require the department or any other licensed entity to assume any of the closing programs' financial obligations.

(b) For purposes of this section, "temporary" means no more than 90 days.

11839.18. Any licensee may petition the director for waiver of licensure fees or late payment penalties for the current fiscal year based upon financial hardship. Prior to the granting of relief, the licensee shall demonstrate hardship by production of appropriate financial records. The director may, in his or her discretion, grant all or part of the relief sought, but shall consider the reasonableness of the relief in light of the other expenditures undertaken by the licensee, giving particular scrutiny to the licensee's own profits, earnings, or other compensation, and expenses such as interest, mortgage, or loan payments, as well as noncash expenses such as accruals and depreciation.

11839.19. (a) The department shall not license the establishment of a narcotic treatment program without a written application by the treatment facility that meets evaluative criteria required by the department.

(b) The department shall not require disclosure of the identity of patients or former patients or of any records containing identifying information except as provided in Section 11845.5.

11839.20. (a) It is the intent of the Legislature in licensing narcotic treatment programs to provide a means whereby the



patient may be rehabilitated and will no longer need to support a dependency on narcotics. It is, therefore, the intent of the Legislature that each narcotic treatment program shall have a strong rehabilitative element, including, but not limited to, individual and group therapy, counseling, vocational guidance, and job and education counseling. The Legislature declares the ultimate goal of all narcotic treatment programs shall be to aid the patient in altering his or her lifestyle and eventually to eliminate all dependency on drugs.

(b) The department shall adopt any regulations necessary to ensure that every program is making a sustained effort to end the drug dependency of the patients.

11839.21. The State Department of Health Services shall establish criteria for acceptable performance from those laboratories performing urinalysis or other body fluid analysis and shall not permit utilization of laboratories unable to meet an acceptable level of performance. The results of any performance evaluation of any laboratory shall immediately be made available to the local programs upon request. Nothing in this section shall prohibit body fluid analysis to be performed by a licensed narcotic treatment program upon approval of the State Department of Health Services.

11839.22. The state department shall require a system to detect multiple registration by narcotic clients.

Article 2. Narcotic Treatment Program Body Fluids Testing

11839.23. The State Department of Health Services shall adopt and publish rules and regulations to be used in approving and governing the operation of laboratories engaging in the performance of tests referred to in Section 11839.24, including, but not limited to, the qualifications of the laboratory employees who perform the tests, which qualifications the department determines are reasonably necessary to ensure the competence of the laboratories and employees to prepare, analyze, and report the results of the tests.

11839.24. Substance abuse testing for narcotic treatment programs operating in the state shall be performed only by a laboratory approved and licensed by the State Department of Health Services for the performance of those tests.



11839.25. Each laboratory in this state that performs the test referred to in Section 11839.24 shall be licensed by the State Director of Health Services. The laboratory, other than a laboratory operated by the state, county, city, city and county, or other public agency, or a clinical laboratory licensed pursuant to subdivision (f) of Section 1300 of the Business and Professions Code, shall, upon application for licensing, pay a fee to the State Department of Health Services in an amount to be determined by that department, which fee will reimburse the department for the costs incurred by the department in the issuance and renewal of the licenses. On or before July 1 of each year thereafter, the laboratory shall pay to the State Department of Health Services a fee, determined by the department, for the renewal of its license.

11839.26. The State Department of Health Services shall enforce this article and the rules and regulations adopted pursuant to this article by the department.

11839.27. The State Department of Health Services shall annually publish a list of approved and licensed laboratories engaging in the performance of tests referred to in Section 11839.24.

11839.28. Every laboratory that has been approved and for which a license has been issued shall be periodically inspected by a duly authorized representative of the State Department of Health Services. Reports of this inspection shall be prepared by the representative conducting it upon forms prepared and furnished by the State Department of Health Services and shall be filed with that department.

11839.29. Any license issued pursuant to Section 11839.25 may be suspended or revoked by the State Director of Health Services. The State Director of Health Services may refuse to issue a license to any applicant. Any proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the State Director of Health Services shall have the powers and duties granted therein.

11839.30. The State Director of Health Services may deny a license if any of the following apply to the applicant, or any partner, officer, or director thereof:



(a) The person fails to meet the qualifications established by the State Department of Health Services pursuant to this chapter for the issuance of the license applied for.

(b) The person was previously the holder of a license issued under this chapter, which license has been revoked and never reissued or was suspended and the terms of the suspension have not been fulfilled.

(c) The person has committed any act involving dishonesty, fraud, or deceit, whereby another was injured or whereby the applicant has benefited.

11839.31. The State Director of Health Services may suspend, revoke, or take other disciplinary action against a licensee as provided in this chapter, if the licensee or any partner, officer, or director thereof does any of the following:

(a) Violates any of the regulations promulgated by the State Department of Health Services pursuant to this article.

(b) Commits any act of dishonesty, fraud or deceit, whereby another is injured or whereby the licensee benefited.

(c) Misrepresents any material fact in obtaining a license.

11839.32. The State Director of Health Services may take disciplinary action against any licensee after a hearing as provided in this article by any of the following:

(a) Imposing probation upon terms and conditions to be set forth by the State Director of Health Services.

(b) Suspending the license.

(c) Revoking the license.

11839.33. All accusations against licensees shall be filed within three years after the act or omission alleged as the ground for disciplinary action, except that with respect to an accusation alleging a violation of subdivision (c) of Section 11839.31, the accusation shall be filed within two years after the discovery by the State Department of Health Services of the alleged facts constituting the fraud or misrepresentation prohibited by that section.

11839.34. After suspension or revocation of the license upon any of the grounds set forth in this article, the license shall not be reinstated or reissued within a period of one year after the effective date of suspension or revocation. After one year after the effective date of the suspension or revocation, the State Department of Health Services may reinstate the license upon proof of



compliance by the applicant with all provisions of the decision as to reinstatement.

SEC. 114.5. Section 11839.20 is added to the Health and Safety Code, to read:

11839.20. (a) It is the intent of the Legislature in licensing narcotic treatment programs that use prescription medications to provide a means whereby the patient may be rehabilitated and will no longer need to support a dependency on narcotics.

(b) It is further the intent of the Legislature that each narcotic treatment program shall have a strong rehabilitative element, including, but not limited to, individual and group therapy, counseling, vocational guidance, and job and education counseling.

(c) The Legislature finds and declares that the ultimate goal of all narcotic treatment programs shall be to aid the patient in altering his or her lifestyle and eventually to eliminate dependency on all the improper use of legal drugs or the abuse of illicit drugs.

(d) The department shall adopt any regulations necessary to ensure that every program is making a sustained effort to end the illicit drug dependency of the patients' improper use of legal drugs or the abuse of illicit drugs.

SEC. 115. The heading of Chapter 10 (commencing with Section 11840) of Part 2 of Division 10.5 of the Health and Safety Code is amended and renumbered to read:

CHAPTER 11. GENERAL FINANCIAL PROVISIONS

SEC. 116. Section 11840 of the Health and Safety Code is amended to read:

11840. Each county shall provide matching funds for programs and services provided by the county under this part, except as follows:

(a) State hospital alcohol and other drug programs shall be funded on the basis of 85 percent state funds and 15 percent county funds.

(b) The cost of state hospital services in counties with a population of 100,000 or less shall be financed on the basis of 90 percent state funds and 10 percent county funds.

SEC. 117. Section 11840.1 of the Health and Safety Code is amended to read:



11840.1. (a) Every fiscal year, 10 percent county matching funds shall be required for support of programs and services provided under this part by a county of more than 100,000 population.

(b) Notwithstanding any other provision of law, no county matching funds shall be required pursuant to this section for funding received for the purposes of funding existing residential perinatal treatment programs that were begun through federal Center for Substance Abuse Treatment grants but whose grants expired on or before October 1, 2000. For counties in which there is such a provider, the department shall include language in those counties' allocation letters that indicates the amount of the allocation designated for the provider during the fiscal year. This exemption shall only apply to the state funding provided to replace the expiring federal grants, and shall not apply to any subsequent program expansions.

(c) The department may reallocate any funds that are not matched by counties within 30 days after notification of the Joint Legislative Budget Committee using a letter as prescribed in Section 28.00 of the Budget Act. However, the reallocated funds shall not be counted into the base allocation.

SEC. 118. Section 11841 of the Health and Safety Code is amended to read:

11841. (a) It is the intent of the Legislature that all programs funded under this part shall be partially self-supporting by raising revenues in addition to the funds allocated by the department. These revenues may include, but are not limited to, fees for services, private contributions, grants, or other governmental funds. These revenues shall be used in support of additional alcohol and other drug services or facilities.

(b) Each program funded under this part, which program provides alcohol and other drug services to individuals and their families, shall assess fees to participants in the programs. The fee requirement shall not apply to prevention and early intervention activities.

(c) Each county shall identify in its annual cost report the types and amounts of revenues raised by all the providers of services funded under this part.



SEC. 119. Chapter 12 (commencing with Section 11842) is added to Part 2 of Division 10.5 of the Health and Safety Code, to read:

CHAPTER 12. REGISTRATION OF NARCOTIC, ALCOHOL, AND
OTHER DRUG ABUSE PROGRAMS

11842. As used in this chapter, “narcotic and drug abuse program” means any program that provides any service of care, treatment, rehabilitation, counseling, vocational training, self-improvement classes or courses, replacement narcotic therapy in maintenance or detoxification treatment, or other medication services for detoxification and treatment, and any other services that are provided either public or private, whether free of charge or for compensation, which services are intended in any way to alleviate the problems of narcotic addiction or habituation or drug abuse addiction or habituation or any problems in whole or in part related to the problem of narcotics addiction or drug abuse, or any combination of these problems.

11842.5. As used in this chapter, an alcohol and other drug abuse program includes, but is not limited to:

(a) Residential programs that provide a residential setting and services such as detoxification, counseling, care, treatment, and rehabilitation in a live-in facility.

(b) Drop-in centers that are established for the purpose of providing counseling, advice, or a social setting for one or more persons who are attempting to understand, alleviate, or cope with their problems of alcohol and other drug abuse.

(c) Crisis lines that provide a telephone answering service that provides, in whole or in part, crisis intervention, counseling, or referral, or that is a source of general drug abuse information.

(d) Free clinics that are established for the purpose, either in whole or in part, of providing any medical or dental care, social services, or treatment, or referral to these services for those persons recognized as having a problem of narcotics addiction or drug abuse. Free clinics include primary care clinics licensed under paragraph (2) of subdivision (a) of Section 1204.

(e) Detoxification centers that are established for the purpose of detoxification from drugs, regardless of whether or not narcotics, restricted dangerous drugs, or other medications are



administered in the detoxification and whether detoxification takes place in a live-in facility or on an outpatient basis.

(f) Narcotic treatment programs, whether inpatient or outpatient, that offer replacement narcotic therapy and maintenance, detoxification, or other services, in conjunction with that replacement narcotic therapy.

(g) Chemical dependency programs, whether inpatient or outpatient and whether in a hospital or nonhospital setting, that offer a set program of treatment and rehabilitation for persons with a chemical dependency that is not primarily an alcohol dependency.

(h) Alcohol and other drug prevention programs that promote positive action that changes the conditions under which the drug-taking behaviors to be prevented are most likely to occur and a proactive and deliberate process that promotes health and well-being by empowering people and communities with resources necessary to confront complex and stressful life conditions.

(i) Nonspecific drug programs that have not been specifically mentioned in subdivisions (a) to (h), inclusive, but that provide or offer to provide, in whole or in part, for counseling, therapy, referral, advice, care, treatment, or rehabilitation as a service to those persons suffering from alcohol and other drug addiction, or alcohol and other drug abuse related problems that are either physiological or psychological in nature.

11843. The county shall establish and maintain a registry of all narcotic and drug abuse programs and alcohol and other drug abuse programs within the county in order to promote a coordination of effort in the county.

11843.5. Each narcotic and drug abuse program and alcohol and other drug abuse program in a county shall register annually with the county alcohol and drug program administrator by July 1 or within 30 days after being established.

11844. Registration under this chapter shall include registration of all of the following information concerning the particular narcotic and drug abuse program or alcohol and other drug abuse program registering:

(a) A description of the services, programs, or activities provided by the narcotic and drug abuse program and the types of patients served.



(b) The address of each facility at which the services, programs, or activities are furnished.

(c) The names and addresses of the persons or agencies responsible for the direction and operation of the narcotic and drug abuse program or alcohol and other drug abuse program.

11844.5. Registration under this part does not constitute the approval or endorsement of the narcotic and drug abuse program or alcohol and other drug abuse program by any state or county officer, employee, or agency.

11845. For the purpose of this chapter, registration shall not be required for those programs that provide alcohol and other drug abuse education in public or private schools as a matter of and in conjunction with a general education of students. This chapter does not require registration of law enforcement agencies that provide alcohol and other drug abuse education in the course of their normal performance of duties. Nothing in this chapter shall prohibit registration of these programs of education or law enforcement if the law enforcement and education agencies so desire.

11845.5. (a) The identity and records of the identity, diagnosis, prognosis, or treatment of any patient, which identity and records are maintained in connection with the performance of any alcohol and other drug abuse treatment or prevention effort or function conducted, regulated, or directly or indirectly assisted by the department shall, except as provided in subdivision (c), be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under subdivision (b).

(b) The content of any records referred to in subdivision (a) may be disclosed in accordance with the prior written consent of the client with respect to whom the record is maintained, but only to the extent, under the circumstances, and for the purposes as clearly stated in the release of information signed by the client.

(c) Whether or not the client, with respect to whom any given record referred to in subdivision (a) is maintained, gives his or her written consent, the content of the record may be disclosed as follows:

(1) In communications between qualified professional persons employed by the treatment or prevention program in the provision of service.



(2) To qualified medical persons not employed by the treatment program to the extent necessary to meet a bona fide medical emergency.

(3) To qualified personnel for the purpose of conducting scientific research, management audits, financial and compliance audits, or program evaluation, but the personnel may not identify, directly or indirectly, any individual client in any report of the research, audit, or evaluation, or otherwise disclose patient identities in any manner. For purposes of this paragraph, the term “qualified personnel” means persons whose training and experience are appropriate to the nature and level of work in which they are engaged, and who, when working as part of an organization, are performing that work with adequate administrative safeguards against unauthorized disclosures.

(4) If the recipient of services is a minor, ward, or conservatee, and his or her parent, guardian, or conservator designates, in writing, persons to whom his or her identity in records or information may be disclosed, except that nothing in this section shall be construed to compel a physician and surgeon, psychologist, social worker, nurse, attorney, or other professional person to reveal information that has been given to him or her in confidence by members of the client’s family.

(5) If authorized by a court of competent jurisdiction granted after application showing probable cause therefor, as provided in subdivision (c) of Section 1524 of the Penal Code.

(d) Except as authorized by a court order granted under paragraph (5) of subdivision (c), no record referred to in subdivision (a) may be used to initiate or substantiate any criminal charges against a client or to conduct any investigation of a client.

(e) The prohibitions of this section shall continue to apply to records concerning any individual who has been a client, irrespective of whether he or she ceases to be a client.

SEC. 120. Chapter 13 (commencing with Section 11847) is added to Part 2 of Division 10.5 of the Health and Safety Code, to read:



CHAPTER 13. NARCOTIC AND ALCOHOL AND OTHER DRUG
ABUSE PROGRAMS

11847. The Legislature hereby finds and declares that it is essential to the health and welfare of the people of this state that action be taken by state government to effectively and economically utilize federal and state funds for narcotic and alcohol and other drug abuse prevention, care, treatment, and rehabilitation services. To achieve this, it is necessary that all of the following occur:

(a) Existing fragmented, uncoordinated, and duplicative narcotic and alcohol and other drug abuse programs be molded into a comprehensive and integrated statewide program for the prevention of narcotic and alcohol and other drug abuse and for the care, treatment, and rehabilitation of narcotic addicts and alcohol and other drug users.

(b) Responsibility and authority for planning programs and activities for prevention, care, treatment, and rehabilitation of narcotic addicts be concentrated in the department. It is the intent of the Legislature to assign responsibility and grant authority for planning narcotic and alcoholic and other drug abuse prevention, care, treatment, and rehabilitation programs to the department whose functions shall be subject to periodic review by the Legislature and appropriate federal agencies.

(c) The department succeeds to, and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction with regard to substance abuse formerly vested in the State Department of Health.

11847.1. The department shall consult with state and local health planning bodies and encourage and promote effective use of facilities, resources, and funds in the development of integrated, comprehensive local programs for the prevention, care, treatment, and rehabilitation of narcotic and alcohol and other drug abuse.

11847.2. Any community alcohol and other drug abuse service may by contract furnish community alcohol and other drug abuse services to any other county.

11847.3. The department shall, within available resources, consult with federal, state and local agencies involved in the provision and delivery of services of prevention, care, treatment, and rehabilitation of alcohol and other drug abusers.



11847.4. The department shall provide technical assistance, guidance, and information to local governments and state agencies with respect to the creation and implementation of programs and procedures for dealing effectively with alcohol and other drug abuse prevention, care, treatment, and rehabilitation. The department may charge a fee for these services.

11847.5. The department shall establish goals and priorities for all state agencies providing narcotic and alcohol and other drug abuse services. All state governmental units operating alcohol and other drug programs or administering or subventing state or federal funds for alcohol and other drug programs shall annually set their program priorities and allocate funds in coordination with the department.

11847.6. The department shall, in the same manner and subject to the same conditions as other state agencies, develop and submit annually to the Department of Finance a program budget.

11848. (a) (1) Alcohol and other drug abuse services allowable under the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code) as approved by the department and the State Department of Health Services as qualified for financial participation under Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.) shall be funded, notwithstanding Sections 11817.3, 11840, and 11840.1, at 100 percent of the state and federal cost by using the county's existing state General Fund allocation, as appropriated in the department's annual budget, to first fund the state's portion of the allowable costs.

(2) For each fiscal year there shall be a separate state General Fund appropriation in Item 4200-101-0001 of the department's annual budget for non-Drug Medi-Cal nonperinatal services. There shall also be an appropriation in Item 4200-102-0001 of the department's annual budget for Drug Medi-Cal nonperinatal services.

(3) For each fiscal year there shall be a separate state General Fund appropriation in Item 4200-103-0001 of the department's annual budget for Drug Medi-Cal perinatal services. Non-Drug Medi-Cal perinatal services shall be appropriated in Item 4200-104-0001 of the department's annual budget.

(4) The department shall maintain a contingency reserve of unexpended state General Funds appropriated for Drug Medi-Cal



allowable services pursuant to subdivision (e) of Section 14132.90 of the Welfare and Institutions Code.

(5) Unexpended moneys appropriated from the state General Fund for Drug Medi-Cal expenditures may be transferred for use by counties for non-Drug Medi-Cal expenditures. Unexpended moneys appropriated for Drug Medi-Cal expenditures may not be used to provide matching funds for federal financial participation.

(b) The intent of the Legislature in enacting this section is to provide a funding source for counties to establish alcohol and other drug abuse services without any increased costs to the state General Fund and at the same time not to require the county to provide additional matching funds in order for the county to use a portion of its state share of local drug programs Medi-Cal funds now available to counties without a required 10-percent match.

11848.5. (a) Once the negotiated rate has been approved by the county, all participating governmental funding sources, except the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code), shall be bound to that rate as the cost of providing all or part of the total county alcohol and other drug program as described in the county plan for each fiscal year to the extent that the governmental funding sources participate in funding the county alcohol and other drug program. Where the State Department of Health Services adopts regulations for determining reimbursement of alcohol and other drug program services formerly allowable under the Short-Doyle program and reimbursed under the Medi-Cal Act, those regulations shall be controlling only as to the rates for reimbursement of alcohol and other drug program services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries. Providers under this section shall report to the department and the county any information required by the department in accordance with the procedures established by the director of the department.

(b) The Legislature recognizes that alcohol and other drug abuse services differ from mental health services provided through the State Department of Mental Health and therefore should not necessarily be bound by rate determination methodology used for reimbursement of those services formerly provided under the Short-Doyle program and reimbursed under the Medi-Cal Act. The department and the State Department of Health Services shall,



pursuant to Section 14021.5 of the Welfare and Institutions Code, develop a ratesetting methodology suitable for alcohol and other drug services reimbursed under the Medi-Cal program using an all-inclusive rate encompassing the costs of reimbursable service functions provided by each authorized modality.

11849. Expenditures incurred pursuant to this part shall be in accordance with the regulations of the director and shall be subject to payment whether incurred by direct or joint operation of the facilities and services, by provisions therefor through contract, or by other arrangement pursuant to the provisions of this chapter. The director may make investigations and audits of the expenditures as he or she may deem necessary.

11849.5. (a) In determining the amounts that may be paid, fees paid by persons receiving services or fees paid on behalf of those persons by the federal government, by the California Medical Assistance Program set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, and by other public or private sources, shall be deducted from the costs of providing services. Whenever feasible, alcohol and other drug abusing persons who are eligible for alcohol and other drug abuse services under the California Medical Assistance Program shall be treated in a facility approved for reimbursement in that program.

(b) General unrestricted or undesignated private charitable donations and contributions made to charitable or nonprofit organizations shall not be considered as “fees paid by persons” or “fees paid on behalf of such persons” under this section and the contributions shall not be applied in determining the amounts to be paid. The unrestricted contributions shall not be used in part or in whole to defray the costs or the allocated costs of the California Medical Assistance Program.

11850. The department shall coordinate all narcotic and alcohol and other drug abuse services and related programs conducted by state agencies with the federal government, and shall ensure that there is no duplication of those programs among state agencies and that all agreements, contracts, plans, and programs proposed to be submitted by any state agency, other than the Regents of the University of California, to the federal government in relation to narcotic and alcohol and other drug abuse related



problems shall first be submitted to the state department for review and approval.

11850.5. The department may require state agencies to contract with it for services to carry out the provisions of this division.

11851. The department may accept and expend grants, gifts, and legacies of money, and, with the consent of the Department of Finance, accept, manage, and expend grants, gifts, and legacies of other properties in furtherance of the purposes of this division.

11851.5. In addition to those expenditures authorized under Section 11851, expenditures subject to payment shall include expenses incurred by members of the local advisory board on alcohol and other drug programs in providing alcohol and other drug program services through the implementation of executed negotiated net amount contracts, and Drug Medi-Cal contracts, or approved county plans. Payment shall be made of actual and necessary expenses of members incurred incident to the performance of their official duties and may include travel, lodging, and meals while on official business.

11852. Whenever a county receives funds under a grant program for alcohol and other drug abuse services, as well as under the county plan, negotiated net amount contract, and Drug Medi-Cal contract, whichever is applicable, from either the federal or state government, or from any other grantor, public or private, and fails to include that grant program in the county plan, negotiated net amount contract, and Drug Medi-Cal contract, whichever is applicable, and alcohol and other drug program budget, the director shall not thereafter approve any, or provide, advance payment claims submitted by the county for state reimbursement under this part unless and until the county plan, negotiated net amount contract, and Drug Medi-Cal contract, whichever is applicable, and alcohol and other drug program budget has been reviewed to include that grant program and the revised county plan, negotiated net amount contract, and Drug Medi-Cal contract, whichever is applicable, and budget is approved by the director.

11852.5. (a) Charges shall be made for services rendered to each person under a county plan in accordance with this section. Charges for the care and treatment of each client receiving service under a county plan, negotiated net amount contract, and Drug



Medi-Cal contract, whichever is applicable, shall not exceed the actual cost thereof as determined by the director in accordance with standard accounting practices. The fee requirement shall not apply to prevention and early intervention services. The director is not prohibited from including the amount of expenditures for capital outlay or the interest thereon, or both, in his or her determination of actual cost. The responsibility of a client, his or her estate, or his or her responsible relatives to pay the charges shall be determined in accordance with this section.

(b) Each county shall determine the liability of clients rendered services under a county plan, negotiated net amount contract, and Drug Medi-Cal contract, whichever is applicable, and of their estates or responsible relatives, to pay the charges according to ability to pay. Each county shall collect the charges. The county shall establish and maintain policies and procedures for making the determinations of liability and collections, by collecting third-party payments and from other sources to the maximum extent practicable. The written criteria shall be a public record and shall be made available to the department or any individual. Fees collected shall be retained at the local level and be applied toward the purchase of additional drug services.

(c) Services shall not be denied because of a client's ability or inability to pay. County-operated and contract providers of treatment services shall set and collect fees using methods approved by the county alcohol and drug program administrator. All approved fee systems shall conform to all of the following guidelines and criteria:

(1) The fee system used shall be equitable.

(2) The fee charged shall not exceed actual cost.

(3) Systems used shall consider the client's income and expenses.

(4) Each provider fee system shall be approved by the county alcohol and drug program administrator. A description of each approved system shall be on file in the county board office.

(d) To ensure an audit trail, the county or provider, or both, shall maintain all of the following records:

(1) Fee assessment schedules and collection records.

(2) Documents in each client's file showing client's income and expenses, and how each was considered in determining fees.



(e) Each county shall furnish the director with a cost report of information the director shall require to enable the director to maintain a cost-reporting system of the costs of alcohol and other drug program services in the county funded in whole or in part by state-administered funds. The cost-reporting system established pursuant to this section shall supersede the requirements of paragraph (2) of subdivision (b) of Section 16366.7 of the Government Code for a quarterly fiscal reporting system. An annual cost report, for the fiscal year ending June 30, shall be submitted to the department by November 1.

(f) The Legislature recognizes that alcohol and other drug programs may provide a variety of services described in this part, which services will vary depending on the needs of the communities that the programs serve. In devising a system to assure that a county has expended its funds pursuant to any applicable executed negotiated net amount contract, Drug Medi-Cal contract, and approved county plan, including the budget portions of the plan, the department shall take into account the flexibility that a county has in the provision of services and the changing nature of alcohol and other drug programs in responding to the community's needs.

(g) The department shall maintain a reporting system to assure that counties have budgeted and expended their funds pursuant to their executed negotiated net amount contracts, Drug Medi-Cal contracts, and approved county plans, whichever is applicable.

11853. Counties are encouraged to contract with providers for the provision of services funded through the county's executed negotiated net amount contract, Drug Medi-Cal contract, and approved county plan, whichever is applicable. Counties shall comply with the regulations of the department for the management of contracts with community organizations, as contained in the county administration and program services regulations as developed by the department.

11853.5. The department shall review each county's executed negotiated net amount contract, Drug Medi-Cal contract, and approved county plan, whichever is applicable, to determine that it complies with the requirements of this part and with the standards adopted under this part.

11854. The department shall devise and implement, in consultation with the counties, a program reporting method to



evidence county compliance with this part. Until that date, the department shall ensure the payment and cost-reporting system does not impair the implementation of this part.

11854.5. Each county may establish standards that meet or exceed state standards for the treatment and operation of all county-operated and county-contracted alcohol and other drug treatment facilities and services, hereafter referred to as a “quality assurance system.” A “quality assurance system” is a systematic approach for the evaluation of the quality of care, which approach is designed to promote and maintain efficient, effective, and appropriate alcohol and other drug treatment services.

11855. Payments or advances of funds to cities, counties, cities and counties, or other state agencies, which funds are properly chargeable to appropriations to the department, may be made by a Controller’s warrant drawn against state funds appropriated to the department or federal funds administered by the department. No more than one-twelfth of the amount to be allocated to a given entity for the fiscal year may be advanced each month.

11855.5. (a) The department may charge a reasonable fee for the certification or renewal certification of a program that voluntarily requests the certification. The fee shall be set at a level sufficient to cover administrative costs of the program certification process incurred by the department. In calculating the administrative costs the department shall include staff salaries and benefits, related travel costs, and state operational and administrative costs.

(b) The department may contract with private individuals or agencies to provide technical assistance and training to qualify programs for state certification. The department may charge a fee for these services.

11856. The department shall encourage the development of educational courses that provide core knowledge concerning alcohol and other drug problems and programs to personnel working within alcohol and other drug programs.

11856.5. The department shall conduct onsite monitoring and reviews of individual county-operated alcohol and other drug programs and alcohol and other drug program administration with emphasis on the review of county administration. The



administrative reviews shall include sampling of all services, including those provided by county contract providers.

SEC. 121. The heading of Part 3 (commencing with Section 11860) of Division 10.5 of the Health and Safety Code is amended to read:

**PART 3. STATE GOVERNMENT’S ROLE TO ALLEVIATE
PROBLEMS RELATED TO THE USE AND ABUSE OF
ALCOHOL AND OTHER DRUGS**

SEC. 122. Section 11860 of the Health and Safety Code is amended to read:

11860. The state department, with the approval of the Secretary of California Health and Human Services Agency, may contract with any public or private agency for the performance of any of the functions vested in the department by this chapter. Any state department is authorized to enter into a contract described in this section.

SEC. 123. Section 11864 of the Health and Safety Code is repealed.

SEC. 124. Article 2 (commencing with Section 11865) of Chapter 1 of Part 3 of Division 10.5 of the Health and Safety Code is repealed.

SEC. 125. Article 3 (commencing with Section 11875) of Chapter 1 of Part 3 of Division 10.5 of the Health and Safety Code is repealed.

SEC. 125.5. Article 3 (commencing with Section 11875) is added to Chapter 1 of Part 3 of Division 10.5 of the Health and Safety Code, to read:

Article 3. Narcotic Treatment Programs

11875. The following controlled substances are authorized for use in replacement narcotic therapy by licensed narcotic treatment programs:

(a) Methadone.

(b) Levoalphacetylmethadol (LAAM) as specified in paragraph (10) of subdivision (c) of Section 11055.



(c) Buprenorphine products or combination products approved by the federal Food and Drug Administration for maintenance or detoxification of opioid dependence.

(d) Any other federally approved controlled substances used for the purpose of narcotic replacement treatment.

11876. The department shall inspect programs dispensing controlled substances described in subdivision (c) of Section 11875 to ensure that the programs are operating in compliance with applicable federal statutes and regulations, including the provisions of Part 8 of Title 42 of the Code of Federal Regulations.

SEC. 126. Article 4 (commencing with Section 11885) of Chapter 1 of Part 3 of Division 10.5 of the Health and Safety Code is repealed.

SEC. 127. The heading of Chapter 2 (commencing with Section 11960) of Part 3 of Division 10.5 of the Health and Safety Code is amended to read:

CHAPTER 2. COMMUNITY ALCOHOL AND OTHER DRUG ABUSE
CONTROL

SEC. 128. Article 1 (commencing with Section 11960) of Chapter 2 of Part 3 of Division 10.5 of the Health and Safety Code is repealed.

SEC. 129. Article 2 (commencing with Section 11965) of Chapter 2 of Part 3 of Division 10.5 of the Health and Safety Code is repealed.

SEC. 131. The heading of Article 4 (commencing with Section 11970.1) of Chapter 2 of Part 3 of Division 10.5 of the Health and Safety Code is amended and renumbered to read:

Article 2. Comprehensive Drug Court Implementation Act of
1999

SEC. 132. The heading of Article 5 (commencing with Section 11970.45) of Chapter 2 of Part 3 of Division 10.5 of the Health and Safety Code is amended and renumbered to read:



Article 3. Drug Court Partnership Act of 2002

SEC. 133. Chapter 3 (commencing with Section 11970.5) of Part 3 of Division 10.5 of the Health and Safety Code is repealed.

SEC. 134. Chapter 4 (commencing with Section 11980) of Part 3 of Division 10.5 of the Health and Safety Code is repealed.

SEC. 135. Section 114.5 of this bill shall only become operative if (1) both this bill and Assembly Bill 2136 are enacted and become effective on or before January 1, 2005, (2) this bill adds Section 11839.20 to the Health and Safety Code and repeals Section 11880 of the Health and Safety Code, Assembly Bill 2136 amends Section 11880 of the Health and Safety Code, and (3) this bill is enacted after Assembly Bill 2136, in which case Section 11839.20 of the Health and Safety Code, as contained in Section 114 of this bill shall not become operative.



Approved _____, 2004

Governor

